

# **A POLITICAL ANALYSIS OF MONUC'S INVOLVEMENT IN THE PEACE AND SECURITY PROBLEMATIQUE OF THE DEMOCRATIC REPUBLIC OF CONGO**

by

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## DECLARATION

I declare that ***A political analysis of MONUC's involvement in the peace and security problematique of the Democratic Republic of Congo*** is my own original work and has not previously been submitted by me for a degree at another university. All primary and secondary sources used have been duly acknowledged.

**KABONGO KIDIAWENDA DOUDOU**

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Signature

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Date

## **ACKNOWLEDGEMENTS**

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## DEDICATION

I dedicate this work to all women and girls who have been raped in the course of the DRC war, under the arguably complicit silence of the United Nations Security Council, which in the 11 years of presence failed to restore peace and security in the Democratic Republic of Congo. Women's bodies have sadly become a battlefield, and rape is used as a weapon of war.

There is not a single day that has gone by since the war began in the Democratic Republic of Congo where a woman or a girl was not raped. *“After being there for only four days, I was called to treat and examine a little girl. A little girl of six years old who had been raped ... when you listen to the language, to express what happened to a little girl of six years old ... as an adult, all it creates in you ... you revolt! You say it's not possible!”* Dr Denis Mukwege.

## **ABSTRACT**

Armed conflict and violence against civilians in the Democratic Republic of the Congo has persisted for years starting in the 1990s. The Eastern, Western and North-Eastern parts of the country have seen the presence of a multiplicity of armed groups that have caused an escalation of the humanitarian crisis. The United Nations, in the interest of civilian protection, peacekeeping and security sector reform in the Democratic Republic of the Congo declared a mission under The United Nations Organisational Mission in the Democratic Republic of the Congo (MONUC). In spite of this mission, civilians continued in the Congo to suffer attacks and to endure human rights abuses by the armed militants that are fighting government and the government forces in shape of the Armed Forces of the Democratic Republic of the Congo (FARDC). This study examines the problematique of the mandate of MONUC in the Democratic Republic of the Congo in light of the challenges that have made its success debatable. The success of MONUC has become debatable in light of the fact that in spite of its presence and implementation in the DRC, between 2007 and 2010, conflict and the violence against civilians escalated to unprecedented levels. This study examines the causalities of the failure and observes its effect while making propositions towards amelioration of the challenges and the failure of the United Nations Mission in the Democratic Republic of the Congo.

**Key words:** MONUC mandate, peace, security, protect civilians, armed groups, UN Resolution, UN peacekeeping, use of force, UN Chapter VII, Democratic Republic of Congo, UN Security Council

## ACRONYMS AND ABBREVIATIONS

AU	African Union
AFDL	Alliance of Democratic Forces for the Liberation of the Congo-Zaire
AMP	Alliance for the Presidential Majority
APR	Rwandese Patriotic Army
CIAT	The International Committee in support of the Transition
CEI	Independent Electoral Commission of Democratic Republic of the Congo
CEPGL	Great Lakes Countries Economic Community (Communauté Economique des pays des Grands Lacs)
CIGL	International Conference on the Great Lakes Region (Conférence internationale sur la région des Grands Lacs)
CFSP	Foreign and Security Policy
CNDP	National Congress for the Defence of the People
CNS	Sovereign National Conference
CONADER	National Commission for Disarmament Demobilisation and Re-integration of ex-combatants of the Democratic Republic of the Congo
DDR	Disarmament, Demobilisation and Reintegration
DDRRR	Disarmament, Demobilisation, Reintegration, and Resettlement or Repatriation
DCR	Disarmament Community Reinsertion
DRC	Democratic Republic of the Congo
DSR	Defence Sector Reform
DPKO	Department of Peacekeeping Operations
EU	European Union
EUPOL	European Union Police Mission in the Democratic Republic of the Congo
EUSEC	European Union Security Sector Reform Mission in the Democratic Republic of the Congo

FAC	Congolese Armed Forces
FAPC	Armed Forces of the Congolese People
FARDC	Armed Forces of the Democratic Republic of Congo
FAR	Armed Forces of Rwanda
FDLR	Democratic Liberation Forces of Rwanda
FNL	National Liberation Front
HRC	Human Rights Commission
HRW	Human Rights Watch
IEMF	Interim Emergency Multinational Force
ICD	Inter-Congolese Dialogue
ICJ	International Court of Justice
ICG	International Crisis Group
IRC	International Rescue Committee
IDPs	Internally Displaced Persons
ISS	Institute for Security Studies
JMC	Joint Military Commission
LRA	Lord's Resistance Army
MLC	Movement for the Liberation of the Congo
MONUC	United Nations Organisation Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo
NGO's	Non-governmental Organisations
OCHA	Office for the Coordination of Humanitarian Affairs
PARECO	Congolese Patriotic Resistance
PKO	Peacekeeping Operation
PNC	National Congolese Police
PNDRR	National Disarmament, Demobilisation and Reintegration
RCD-G	Rally for Congolese Democracy - Goma
RCD - N	Rally for Congolese Democracy - National
RCD – ML	Rally for Congolese Democracy – Movement for Liberation

RDF	Rwandan Defence Force
SADC	Southern African Development Community
SSR	Security Sector Reform
EUFOR	European Union military operation in the Democratic Republic of the Congo
UNCT	United Nations Country Team
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNHR	United Nations Human Rights
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
UPC/L	Union of Congolese Patriots
UPDF	Ugandan People's Defence Force



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## **CHAPTER ONE: INTRODUCTION**

### **1.1 INTRODUCTION**

This study seeks to examine the problematique that arose from the mandate that formed the basis of the activities of the United Nations Observer Mission in the Democratic Republic of the Congo (MONUC) from 1999 to 2010. The mandate of MONUC is examined and critiqued on how it enabled or disabled the United Nations mission to respond of the challenges and complications of violent conflict on the ground in the Democratic Republic of the Congo.

An analysis of MONUC's mandate and its problematique will be presented preceded by a chronological consideration of the different United Nations Security Council's (UNSC) Resolutions from 1999 to 2010. The chapter will highlight the challenges relating to establishing peace and maintaining security in the DRC which MONUC faced in carrying out its mission. MONUC's mandate was: "to protect civilians under imminent threat of physical violence". In addition, the discussion will provide an oversight on the qualification of the DRC conflict. The study will also look into the transformation of MONUC into the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO). Overall, it will analyse MONUC's achievements, identify the risks that the mission faced and propose alternative perspectives for redefining the new mandate of MONUC.

The introductory chapter provides a background to the study, outlines the research questions and objectives, discusses existing literature pertaining to the research topic, and presents the methodology that was used in the study.

## 1.2 BACKGROUND TO THE CONFLICT IN DRC

This background to the research question is located in the historical chronology of the conflict and the intervention of the United Nations Operation in the Congo (ONUC) and MONUC in the DRC. The DRC has been politically unstable since its independence from Belgium on 30 June 1960. The country experienced turmoil, recurrent coups d'Etat, wars, maladministration, insecurity, mistrust, internal and interstate conflicts, and human rights violations (Ngimbi, 2009: 3-8). Only five days after its independence, the Congolese army mutinied and caused extensive civil unrest between black and white civilians, which included a number of attacks on Belgian citizens. It was on 11 July 1960 that Belgium deployed paratroopers in response to these attacks without the consent of the DRC government (Nzongola, 2002: 101). These troops were sent with instructions to protect fleeing white people and two mining areas, namely Katanga and South Kasai. To complicate matters, local politician Moïse Tshombé on the same day declared Katanga, DRC's most mineral-rich province an independent State. The following month South Kasai also attempted to secede. As a result, the Government of Congo-Kinshasa<sup>1</sup> requested help from the United Nations (UN) on the 12 July 1960 with the intention to protect the country against the external Belgian aggression.<sup>2</sup>

In response to this request the UN deployed the ONUC mission in the Congo-Kinshasa between 14 July 1960 and 30 June 1964.<sup>3</sup> The UNSC supported the DRC government throughout the UNSC Resolution (S/RES/143) of 14 July 1960 which called for Belgium to withdraw its troops. The UNSC subsequently authorised the deployment of an UN peacekeeping force (ONUC) which included troops from 30 member States. At its peak,

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<sup>1</sup>The Democratic Republic of Congo (DRC) was formerly called Republic of Congo-Kinshasa, Zaire or Congo-Kinshasa. In this study, the name Republic of Congo, Zaire and Congo-Kinshasa will be used to refer to the DRC.

<sup>2</sup> In response to Belgium's intervention, both President Kasavubu and Prime Minister Patrice Lumumba called upon the UN to send military assistance on the 12 July 1960, declaring that Belgium had committed an act of aggression against the Congo. Invoking Article 99 of the UN Charter, Secretary-General Dag Hammarskjöld called an urgent meeting of the UN Security Council. The first UN troops were deployed in Kinshasa on 15 July 1960.

<sup>3</sup> <http://www.un.org/depts/DPKO/Missions/onucB.htm#Establishment>, [accessed on 28 October 2013].

in July 1961, the peacekeeping mission comprised 19 828 soldiers and 2 000 civilian experts and technicians.<sup>4</sup>

The arrival of ONUC was initially welcomed by Prime Minister Lumumba<sup>5</sup>, who believed that the UN would help suppress the secessionist States (Katanga and Kasai) (Zeilig, 2008: 110-101). ONUC's initial mandate, however, only covered peacekeeping. It also faced the immediate task of maintaining law and order and protecting the local population. The initiated discussions with the Belgian representative were meant to bring about the withdrawal of Belgian troops at an early date (UNSC Resolution (S/RES/143) of 14 July 1960). Viewing the secessions as an internal political matter, the United Nations Secretary General (UNSG) Dag Hammarskjöld objected to the use of UN troops to assist the DRC government against them (Molefi, 2007: 312). He argued that it would represent the loss of impartiality and a breach of the DRC's sovereignty.

This refusal of the UNSG Hammarskjöld was inadequate given the UNSC Resolution (S/RES/143) which authorised the UNSG to take the necessary steps, in consultation with the DRC Government, to provide the DRC Government with such military assistance. Through this UNSC Resolution, the DRC Government was seen as a united force with UN technical assistance to fully meet its tasks and regain national security. However, Lumumba was dissatisfied with the UNSG Hammarskjöld's refusal to use UN troops to subdue the insurrection in Katanga and decided to attempt an invasion of Katanga on his own and turned to the Union of the Soviet Socialist Republics (USSR) for help (Zeilig, 2008: 116-117). Lumumba, the charismatic leader of the largest nationalist faction in the DRC reacted by calling for assistance from the USSR, which promptly sent military advisors and other support. In addition to the views by Hammarskjöld, the DRC crisis was also a proxy conflict in the Cold War in which the USSR and the United States of America (USA) supported opposing factions. Freund (1998: 201) contended that Hammarskjöld believed that the crisis would provide the organisation with a chance to demonstrate its potential as a major peacekeeping force

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<sup>4</sup> <http://www.un.org/depts/DPKO/Missions/onucB.htm#Establishment>, [accessed on 28 October 2013].

<sup>5</sup> Patrice Émery Lumumba was a Congolese independence leader and the first democratically elected Prime Minister of the Republic of the Congo after he helped secure its independence from Belgium in June 1960.



and encouraged the sending of a multinational contingent of peacekeepers to the DRC under UN command.

This misinterpretation of UN peacekeeping task by Lumumba and the Hammarskjöld led to the UNSC subsequently modifying the ONUC mandate through the political influence of the USA at UNSC. The mandate now included maintaining the territorial integrity and the political independence of the DRC, preventing the occurrence of civil war, and securing the removal of all foreign military groups from the DRC, including paramilitary and advisory personnel not under UN Command, and all mercenaries (Doyle and Sambanis, 2006: 173-179). In addition, the UNSC Resolution A (S/RES/161, para. 1) of 21 February 1961 authorised that the ONUC immediately take all appropriate measures to prevent the occurrence of civil war in the DRC, including arrangements for a ceasefire, halting of all military operations and prevention of clashes, but recommended the use of force, if necessary, as a last resort.

The UNSG and the USA employed strategies designed to weaken Lumumba's position, especially after August 1960, when he had requested and received military assistance from the USSR to suppress the regional rebellions in Katanga<sup>6</sup> and South Kasai (Gibbs, 2000: 82). Lumumba was subsequently abducted and later murdered by opposition politicians on 17 January 1961 (Nzongola, 2002: 111-112). The UN also authorised ONUC to use force, ostensibly to prevent civil war in the Congo (UNSC Resolution A (S/RES/161)). The use of force to remove all mercenaries from Katanga was reiterated in November 1961 (UNSC Resolution S/RES/169). Evidently, ONUC's use of force had serious repercussions for the UN peacekeeping mandate in the DRC. As James (1990: 298) indicated, the mission was widely perceived as a tool for USA foreign policy (who is the other reference; see also Gibbs, 2000). ONUC was eventually terminated in stages after February 1963 when Katanga was reintegrated into the national territory of the DRC. The last ONUC troops were withdrawn on 30 June 1964.

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<sup>6</sup> UN peacekeepers used force shortly afterwards against Tshombé's gendarmes and various mercenary and 'foreign' (mainly Belgian) elements in Katanga (although ONUC troops were also killed by rogue and undisciplined factions of the Congolese army in several incidents during 1961).

On 24 November 1965, General Mobutu Sese Seko took over the country's presidency through a coup d'Etat. Needless to observe that his ascendancy to the presidency was by unconstitutional means<sup>7</sup>. A dictatorial regime was implemented that lasted 32 years (until 1997). He advocated the "Zairianization"<sup>8</sup> of the country (Young and Tuner, 1985: 326-340), a process which included renaming the country Zaire, and emphasised the use of African languages instead of French. President Mobutu systematically used the country's abundant natural resources to consolidate his power, enriching himself and his allies in the process (Nest, Grignon and Emizet, 2006: 12-14). He also suppressed any kind of rebellion and resistance, imprisoned political opponents, and eliminated many of his rivals (*Ibid*). This is consistent with dictatorial regimes.

Austin (1999: 36) posited that after 1990, Mobutu's power started to wane due to diminishing international support which forced the country into a phase of transition to democracy. This transition, however, was delayed by corruption and manipulation (Braeckman, 1992: 198-203; Nzongola, 2002: 157-160). The most notable efforts towards a democratic society were made during the historic National Sovereign Conference (CNS)<sup>9</sup> of 1992-1993. Unfortunately, these resolutions were derailed when President Mobutu suspended the CNS and refused to implement its resolutions and achievements (Nzongola, 2002: 189-198). After the failure of the CNS project, the country was plunged into almost two decades of political crisis and armed conflict.

The situation took a decisive turn for the worse in 1994 in the Great Lakes region, when large numbers of armed refugees from Rwanda and Burundi moved to the eastern regions of the DRC following the genocide in these countries (Reyntjens, 2009: 16-20). The mass exodus of refugees during this period, mostly to the then Zaire and Tanzania, created a situation that triggered the invasion of Zaire by armed forces from Uganda

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<sup>7</sup> This assertion will be dealt with at length in Chapter 4, under the sub heading chronicle of the crisis between the DRC government and MONUC

<sup>8</sup> Zairianisation was an official state ideology of the Mobutu regime that originated in the late 1960s and early 1970s. The authenticity campaign was an effort to rid the country of the lingering vestiges of colonialism and the continuing influence of Western culture and to create a more centralized and singular national identity.

<sup>9</sup> The purpose of the CNS was for the citizens of Zaire to come together to discuss and analyse the situation in the country and to together find solutions to the ills that plagued the country. The goal has indeed been successfully achieved, and new bases were then thrown through the resolutions and the prior learning of the CNS.

and Rwanda in 1996 (Reyntjens, 2009: 45-58). Many of those who participated in the mass killings of Rwanda in 1994 fled to the Kivu provinces of the DRC where they sought refuge there.

In 1997, an armed group, led by Laurent Desire Kabila, took control of the country through a coup d'Etat (Reyntjens, 2009: 45-79; Marriage, 2013: 47-50). Clement (2004: 33) argues that all the agreements between Zaire and Rwanda which existed were suspended due to the aggression towards the territorial sovereignty of Zaire by the troops of the insurgency, which were established as a political movement called "the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL-Z)" and the Rwandese Patriotic Army (APR).

To make matters worse, the situation deteriorated on 2 August 1998 when a second war began in the DRC, backed by the coalition of Rwanda, Uganda and Burundi and the rebel group<sup>10</sup>, against the DRC government. The DRC, then Zaire, became the centre of a regional (Central Africa) war in 1996, when an insurgency under the leadership of Laurent Kabila invaded from the east of the DRC (Lemarchand, 2001: 26-31).

It was during this time that the MONUC was established and placed under Chapter VII of the United Nations Charter. Its mandate authorised the use of all means deemed necessary, within the limits of its capacities and in the areas of deployment of its armed units, to monitor the withdrawal of foreign armed forces, to protect civilians under imminent threat of physical violence and to contribute to the improvement of the security conditions (UNSC Resolution (S/RES/1279) of 30 November 1999). The UN peacekeeping forces' role had therefore gone beyond observing, monitoring and reporting on Lusaka's ceasefire agreements.

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<sup>10</sup> Rally for Congolese Democracy - Goma (RCD-G) and Movement for the Liberation of the Congo (MLC)

### 1.3 RESEARCH PROBLEM

This study focuses on the political involvement of the UN mission in the DRC. It is the primary responsibility of the UN, in terms of its Charter, to ensure international peace and security.<sup>11</sup> This dissertation analyses and evaluates the mandate of MONUC against the backdrop of the realities involved in the process of establishing peace and security in the DRC. The main research problem arises from the observation that 11 years after the initial deployment of MONUC, the conflict in the DRC had not been solved and the conflict still persists as of 21 January 2014. This study therefore seeks to determine the main shortcomings and inadequacies of the current UN mandate in the DRC, and establish the reasons for these shortcomings.

Many serious challenges beset MONUC in their pursuit of security, recovery and development since the historical and remarkable holding of elections in 2006 in the DRC. The security situation in the DRC as of January 2014 remained fragile, the peace process in the eastern DRC was still at risk of unravelling, human rights were still being violated on a wide scale, and many of the political complexities of the country remain intact.<sup>12</sup> The UNSC Mission to Africa presented in a report, dated 11 June 2009 that the DRC; “remains one of the most complex and intricate environments ever faced by a peacekeeping mission” (Neethling, 2011: 191). Against this backdrop, the focus of this study is on the problematique of MONUC’s mandate. These following questions underpin the study:

1. What factors explain the inability of MONUC to restore peace and security in the DRC after 11 years of operation? Why was MONUC unsuccessful in spite of being considered as the largest peacekeeping mission in the world?

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<sup>11</sup> Article 1 of the UN Charter states that “To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression [...] situations which might lead to a breach of the peace.” <https://www.un.org/en/documents/charter/chapter1.shtml>, [accessed on 17 September 2010].

<sup>12</sup> Briefing of Martin Kobler, the UNSG’s Special Representative in the DRC warned that although the security situation in the DRC has vastly improved, it remains fragile and the gains are “not irreversible.” <http://www.un.org.za/dr-congo-despite-improved-security-situation-remains-fragile-un-envoys-warn/>, [accessed on 15 April 2014].

2. To investigate how MONUC's mandate could be improved in order for the mission to effectively respond to the peace and security challenges with regard to the protection of civilians in accordance with chapter VII of the UN Charter?

## **1.4 OBJECTIVES OF THE STUDY**

This study seeks to analyse the problematique of the UN's mandate, which evolved from 1999 to 2010, including how it unfolded in terms of theory and practice of peacekeeping in the DRC. The objectives of this study are:

- a) To determine whether or not the UN's mandate adequately interpreted the DRC conflict,
- b) The mandate entrusted to MONUC was adapted or maladapted for protecting civilian population under imminent physical threat, and
- c) The implementation of MONUC's mandate considered all the challenges existing in the DRC.

### **1.4.1 RESEACH QUESTIONS**

This study is aimed at analysing the problematique of the mandate given by the UNSC through various UNSC Resolutions from 1999 to 2010 and also to investigative the end of MONUC and the transformation into MONUSCO on 1 July 2010 by the UNSC Resolution (S/RES/1925)

The following aspects will be investigated:

1. What strategies did MONUC employ in confronting the conflict in the DRC?
2. Did MONUC approach the conflict in the DRC as a regional conflict or a civil war?
3. What are the limitations of MONUC and its mandate in the DRC?
4. Based on the observations, arguments and conclusions of the study, what are the propositions that the study suggest on how MONUC's mandate could have been improved.

In examining MONUC's mandate and its implications for the problematique of peace and security in the DRC since 1999, this study will in addition debate the definitional concept of the nature of the conflict. The reason is because the DRC conflict was the basis for the motivation for UN intervention in the DRC. The UN considered the conflict in the DRC to be a civil war between Congolese citizens from opposing parties, and therefore as "an internal conflict with external interference", the UN also considered it a conflict similar to the one between 1960 and 1965 in the DRC (Kabungulu, 2000: 1).

Contrary to this perception of the war in the DRC, the Congolese defined it as a foreign armed attack on the country with the aid of Congolese rebels (Prunier, 2009: 181-186). MONUC's mandate was "robust" with regard to the tasks allocated to it by the UNSC.<sup>13</sup> Various international political researchers (Marriage (2007, 2013); Onana (2009); Tull (2009); Turner (2009); Beswick (2010); Veit (2010); UNSC (2010); Autesserre (2009, 2011); Dahrendorf and Taylor, (2008); Nest et al., (2006); Onana and Vlassenroot, (2002); Kabungulu, (2000)) posited that the peace and security situation in the DRC could be viewed as an international or regional war. However, the number of neighbouring countries that took part in the conflict, namely Rwanda, Burundi and Uganda, do not appear in MONUC's mandate as part of the problem.<sup>14</sup>

This view is based on the fact that pursuant to Chapter VII of the UN Charter (UN Charter, chap. VII, Art. 41 and 42), and despite the fact that some changes were made, the ability of MONUC to handle the situation effectively could be subject to a remedial approach of redefining the conflict more accurately. This should be done determining the causes, as well as reviewing the mandate and responding quicker, with the use of force. The UN Charter included several adjustment possibilities for their operations, to

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<sup>13</sup> Interview with Mr Mijahid Alam, Former Head of MONUC, liaison office in Pretoria, held on 21 June 2010 at his offices in Pretoria, South Africa.

<sup>14</sup> The war started by Rwanda, Uganda and Burundi against the DRC and its allies (Zimbabwe, Angola, Namibia). Some observers from the field of African politics speak about the First African World War. On the one side, there are Francophone African countries such as Congo Brazzaville, Gabon, Senegal, Chad, Cameroon and the Central African Republic supporting Kinshasa, and on the other side, there are countries such as South Africa, Botswana and Eritrea, which support the war against the DRC.

be initiated by the UNSG or the United Nations General Assembly (UNGA) with a view to resolving the inadequate measures adopted thus far by the UNSC.<sup>15</sup>

## **1.5 RELEVANCE OF THE STUDY**

This study is significant given that MONUC's mandate has been the most important and yet misunderstood UN mission throughout the world. However, arguably, the mandate was also ineffective in keeping or restoring peace and security in the DRC, as mandated by the UN Charter. The impact of MONUC on the DRC also deserves to be explored from the angle of its limited mandate, which contains certain deficiencies with regard to the security situation in the field. The study will therefore draw upon existing research in this area, but also aims to combine the approaches already adopted by describing not only the process of MONUC's mandate in the DRC, but also its challenges and, most importantly, its contribution to durable peace and security. In so doing, it aims to provide a more comprehensive overview of MONUC's mandate in terms of the DRC than previous studies. By making use of the evaluations, views and ideas of a wide range of local and international actors, this study aims to provide a more detailed insight into how MONUC's mandate interventions were perceived.

This study aims to provide readers with information to help them understand interpret and shed light on the conceptual challenges of UN missions with regard to security and peacekeeping throughout the world. Through this study, readers will be able to understand the implications of MONUC's mandate in terms of the security and peace processes in the DRC and its transformation into MONUSCO. In providing concluding recommendations, this study also aims to contribute towards ideas on effective solutions that will potentially lead to durable peace and security in the DRC. Additionally, it seeks to understand the difficulties that have limited the mandate of MONUC by considering certain political factors of the UNSC in the analysis of the nature of the DRC conflict, as well as the transformation of MONUC into MONUSCO.

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<sup>15</sup> Article 99 of the UN Charter states that the UN Secretary-General "may bring to the attention of the UNSC any matter which in his opinion may threaten the maintenance of international peace and security". Up till now, none of these articles concerning the DRC have been used.

## 1.6 THEORETICAL FRAMEWORK

The theoretical analysis of this study builds upon institutional liberalism assumptions and the proposition that international institutions like the UN, through MONUC, can contribute to a better understanding of the concept of peacekeeping as a relevant theory to deal with conflicts.

The basic ideas of institutional liberalism in international politics according to Keohane (1988: 391) emphasises that the inadequacies of rationalism in analysing the fundamental practice of sovereign statehood, which has been instituted, not by agreement, but as a result of elaboration over time of the principle of sovereignty. The UNSC Resolution (S/RES/1304, para. 2) reiterates its unreserved condemnation of the fighting between Ugandan and Rwandan forces in Kisangani in violation of the sovereignty and territorial integrity of the DRC. Therefore, Keohane's view on sovereignty calls our attention once again to the significance of practices such as sovereign statehood for our understanding of the specific institutions of world politics (*Ibid*, 391). However, international institutions provided countries with a flow of information, opportunities to negotiate and implement commitments, hence their ability to make credible commitments in the first place and to strengthen the prevailing expectations about the solidity of international agreements.

Institutional liberalism is an international politics theory designating a supra-nationalism that promotes the development of institutional cooperation between nations or States (Jackson and Sørensen, 2010: 110-111). These scholars argue that institutional liberalism is a contemporary theory that emerged in liberal thought which argued that international organisations such as the UN, Southern African Development Community (SADC), the North Atlantic Treaty Organisation (NATO) and the African Union (AU) or the European Union (EU) are international institutions or sets of rules that govern State action in particular areas (*Ibid*, 110). This strand of liberalism picks up on earlier liberal thought about the beneficial effects of international institutions. This theory is the most



prominent liberal internationalist theory explaining the way international institutions are controlled by strong States.

Contributions above from Keohane are best known for his concept of the comprehensive peacekeeping operations framework whereby peace contains multiple initiatives at many different levels of society. This conceptual framework is relevant to this study because it explains some general ideas and key components that contribute to a better perception on the topic. Some of these ideas and components help to illustrate the liberal internationalist theory on the role that a UN peacekeeping operation plays in bringing about peace and security problematique in the DRC.

However, the institutional liberalism perspective better informs the analysis of MONUC's involvement in the peace and security problematique in the DRC. Since international institutions have the ability to influence States' behaviours, the institutional liberalist approach can enhance the understanding of MONUC's role in the DRC. The theory will determine how MONUC worked to achieve the peace and security, and mechanisms used towards civilian protection that were possible for MONUC with a proper mandate for peacekeeping. Once MONUC's mandate is fully understood, it becomes possible to evaluate its involvement in the peace and security problematique. Moreover, Keohane and Martin (1995: 39-51) argued that institutions provide valuable information by facilitating cooperation for the settlement of distributional conflicts among states. Indeed, following the role of institutions in international politics, the importance of cooperation between States through international institutions is most important for addressing the interaction of policy environment outcomes. The institutional liberalism theory suggests a form of experiential implications on international institutions which can vary in their impact on interstate disputes.

Therefore, in the interpretation of institutional liberalism used in this study, MONUC was simply a special mission mandated by the UNSC through which all belligerent factions involved in the DRC conflict negotiated for the implementation of peace operations in the country. Analysing MONUC's mandate from Keohane's contributions and comparing

this analysis to the achievement of peace and security gives a complete picture on how the protection of the civilian population was inadequate in the DRC.

Based on the UN Charter's Chapter VI the UN framework gives MONUC a number of ways of facilitating conflict resolution in the DRC through cooperation. This cooperation consists of supervising ceasefires and, delivering humanitarian supplies and protection of civilians under imminent physical threat. In addition, Chapter VII of the UN Charter gives the UN the basis for the use of force to maintain peace and security in the DRC in order to achieve its mission. This theory can be conceptualised as a primary instrument for fixing sets of MONUC's mandate for the peace and security problematique in the DRC. MONUC played a central role in the DRC by providing a flow of information and creating opportunities to negotiate, while at the same time enhancing the ability of belligerent factions and the DRC government. MONUC also facilitated negotiation between the countries involved in the conflict to comply with the Lusaka Ceasefire Agreement. In addition it has strengthened their expectations about the protection of the civilian population and the end of the conflict.

Furthermore, institutional liberalism conceives that international institutions have an ability to influence both intrastate and interstate conflicts (Sørensen, 2006: 251-272). As a result, international institutions can be given attributes of information arbitrageur, mediator, and peacekeeping operations in order to overcome conflicts between States or belligerents through peace agreements. Institutional liberalism assumes that international institutions can be and are prominent in coordinating cooperation for common interests among States. Therefore, it was necessary for States to follow an institutional liberalism pattern in order to gain more frequent cooperation.

## **1.7 RESEARCH METHODOLOGY**

### **1.7.1 Research design**

The study used a qualitative approach to support the arguments in this dissertation. A political analysis of MONUC's involvement in the peace and security problematique of the DRC was undertaken by drawing from observation, interview materials, documents and newspaper reports, which were characteristic of the qualitative approach in the social sciences. This study also paid attention to an insider perspective of key actors and contextual dynamics of the peace and security question in the DRC. In addition, most published research on MONUC used qualitative methods (Kabungulu (2000); Autesserre (2009, 2011); Lemarchand (1997, 2001); Kinsagani and Nest (2006)).

### **1.7.2 Data collection methods**

Different methods were used to answer the central question of this study. Most of the data were collected during field research in the DRC from August to November 2009. This method was supported by fieldwork that was conducted in Kinshasa, capital of the DRC, and most of the information was gathered from relevant books, articles, UN Resolutions and, UN and internet publications on this topic. Due to the fact that the main policies regarding MONUC's mandate were developed on an international level and were being executed on the national level, additional information was gathered in Pretoria, South Africa. Other relevant data were collected before and after the researcher's stay in the DRC. This data were collected through interviews conducted with the ISS, MONUC, South Africa and SADC, as well as conferences attended by the researcher. The methods used for data collection includes a literature review, secondary data collection, interviews, participatory appraisal techniques and participatory observation. These methods will be explained in more detail below. This study's data collection methods can be divided into two categories: primary sources and secondary sources.

### **1.7.2.1 Primary sources**

This study made use of the following primary sources: observation, interviews and UNSC Resolutions. Observation refers to the researcher's own experience of the conflict, peace settlements and MONUC's deployment and activities in the DRC. The researcher lived in the DRC and only left the country in 2008 with regular visits in 2009 and 2010. In addition, the researcher also conducted semi-structured interviews from 2009 to 2011. Subsequent interviews were also held with MONUC officials in Pretoria, Institute for Security Studies (ISS) staff in South Africa, and officials from the DRC Embassy in South Africa. Interviewees also included members of the transitional government, such as Congolese academics, policy analysts and members of civil society. Further details on the list of interviewees and the content of the interviews are provided in the appendix. Finally, the researcher relied on UNSC Resolutions (from (S/RES/1234) of 9 April 1999 to (S/RES/1925) of 30 March 2011) with regard to MONUC, which are used as the basis for an analysis of the origin and evolution of MONUC's mandate.

### **1.7.2.2 Secondary sources**

This study made use of the following secondary sources: UN and MONUC reports, newspapers, non-governmental organisations (NGOs) reports and third party reports, audio-visual material, journals, and books and articles. UN and MONUC reports were used to develop a comparative approach to analyse and evaluate MONUC's mandate against the backdrop of the reality of the peace and security process in the DRC. Unofficial reports on developing strategies in the DRC and internal documents regarding the achievement of MONUC activities were also used. In addition to academic reports, the researcher consulted numerous transitional NGOs reports in the field of human rights, with a track record of conducting field missions in the DRC, including Amnesty International (AI), Human Rights Watch (HRW), Oxfam, the International Crisis Group (ICG) and others, which have consistently reported on the human consequences of the conflict in the region. Magazines and newspapers were also consulted, as well as

reports from a range of international and regional organisations such as SADC, the EU and the AU.

## 1.8 OUTLINE OF THE STUDY

This study is divided in the following five chapters:

**Chapter One:** serves as a general introduction and background to the study, and to discuss the research problem, together with the research question and the different UNSC Resolutions related to MONUC's involvement in the DRC. In addition, the chapter outlines the research objectives, purpose of the study, theory relevant to this study, rationale for the study, and the methodology used.

**Chapter Two:** analyses how MONUC discharged its mandate in the field of peacekeeping operations and security. It begins with an introduction, outlines MONUC's mandate and provides an oversight of the literature review on peacekeeping operations. The discussion also focuses on the responsibilities determined by the UNSC. It provides analyses of MONUC's mandate in the field of peacekeeping operations and security.

**Chapter Three:** provides a critical analysis of MONUC's implications for peace and security issues in the DRC. It provides an introduction on this chapter, and an outline of the qualifications of the DRC's conflict. In addition, the discussion will focus on the implication of MONUC's mandate to protect the civilian population. It also conducts a critical analysis of MONUC's mandate of the implication for the problematique of peace and security, and the electoral process.

**Chapter Four:** analyses the transformation of MONUC into MONUSCO. It begins with an introduction, followed by the chronicle of the relationship between the DRC government and MONUC. The discussion provides an assessment on how the climate of trust deteriorated between the DRC government and MONUC. In addition, the discussion focuses on the request for the withdrawal of MONUC; the future of MONUC;

the UNSC Resolution (S/RES/1925) of May 28, 2010; and from peacekeeping to peacebuilding. It also outlines the mandate of MONUSCO.

**Chapter Five:** presents the findings, recommendations and conclusions of the study. It also suggests how best to achieve peace and security in the DRC. In addition, it also outlines the outcome of the MONUC's mandate regarding the protection of civilians.

## **1.9 CONCLUSION**

This chapter has laid out the background and context of the study. The research objectives and questions have been fleshed out together with the justifications of the study that evaluates the mandate of the MONUC as a United Nations mission in the Democratic Republic of the Congo. This chapter has also enunciated the research methodology, research design and the theoretical and conceptual framework that the study deploys. An exposition of the primary and secondary sources that the study uses is followed by an outline of the chapters and this conclusion to the chapter. The following chapter delves into the mandate of MONUC in order to lay out a clear setting and context of this study.

## **CHAPTER TWO**

### **AN ANALYSIS OF MONUC'S MANDATE IN THE FIELD OF PEACEKEEPING OPERATIONS AND SECURITY IN THE DRC**

#### **2.1 INTRODUCTION**

This chapter examines the nature of MONUC's mandate, and the manner of its execution in peacekeeping operations in the DRC. The chapter begins by outlining MONUC's mandate, as provided by the UNSC, with regard to its ability to abide by the rules,<sup>16</sup> and looks at how the liberal internationalist theory is relevant to this study. The outline is followed by a brief overview of the literature on peacekeeping operations. In addition, subsequent discussions will focus on the responsibilities determined by the UNSC for conflict resolution which provides a mechanism for MONUC's peacekeeping operations. A critique of the context of peacekeeping, as construed by an international organisation with a genuine ability to achieve success in peacekeeping operations, is also highlighted. The chapter concludes with a focus on the outcomes of MONUC's peacekeeping operations and security mandate. With the developments of the situation in the field, especially in the eastern DRC, the UNSC imposed various obligations on the parties in several areas, including the responsibility of MONUC to "enforce or monitor their implementation". This distinction may be useful in assessing the degree to which these obligations have been met by MONUC.

The theoretical approach outlined in Chapter 1 of this study contributes to this study by establishing tools for analysing how the UN through MONUC's mandate, could have achieved success in peacekeeping operations, to enhance conflict resolution within the DRC and the Great Lakes region. The institutional liberalism theory seeks to generalise about the social conditions under which the behaviour of self-serving actors converges toward cooperation or conflict, and the experiential implications for international institutions, which varies in terms of their impact on interstate disputes (Moravcsik,

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<sup>16</sup> This concern was first expressed by the United Nations General Assembly, which "recommends that, in appropriate cases, the UNSC makes it clear to the parties, as it allows a new peacekeeping operation, that he is ready to take further measures in accordance with the UN Charter" (UNSC Resolution (S/RES/47/72, para. 7)).

1997: 517). Although a range of definitions exist, international institutions can be viewed as sets of rules which are meant to govern international behaviour. However, Ostrom (1990: 139) is of the view that rules, in turn, were often used as statements that forbid, require or permit particular kinds of actions. Keohane (1989: 3) defines institutions like the UN as 'persistent and connected sets of rules (formal and informal) that prescribe behavioural roles, constrain activity, and shape expectations', which makes it impossible to measure the impact of MONUC on activities and expectations.

The institutional liberalism theory suggests that international institutions such as the UN are effective in fostering harmony among States, because they are capable of transforming State preferences, as well as promoting pacific global relations (Boehmer, et al., 2004: 1). According to Jackson and Sørensen (2003: 117-120) the UN is meant to play a central role in international relations by providing a flow of information and creating opportunities for conflicting parties to negotiate. It needs to enhance the ability to abide by the rules of MONUC, in order to resolve the peace and security problematique in the DRC through agreements, commitments and the use of force. This will enable the UN to meet expectations regarding the security of the civilian population.

In view of the importance of the humanitarian disaster resulting from the DRC conflict and the number of armed groups in the Kivu provinces, the UN was faced with recurrent waves of conflict in eastern DRC, which threatened the overall stability and development of the country. Particular attention was paid in this dissertation to the UNSC Resolutions, and for this reason, this chapter will focus predominantly on the situation in the eastern DRC.



## 2.2 OUTLINE OF MONUC'S MANDATE

Since its inception on 30 November 1999 by the UNSC, the MONUC's mission has undergone significant changes, both in terms of its mandate and capabilities. However, 11 years after its establishment, peace and security had not been achieved in the DRC. The persistence of violence in several regions, including Katanga, Oriental, North and the South Kivu provinces, as well as delays in the completion of the electoral processes are cases in point. In addition, the reform in the security sector and the implementation of the Disarmament, Demobilisation and Reintegration (DDR) and Disarmament, Demobilisation, Reintegration, and Resettlement or Repatriation (DDRRR) processes, show that the challenges remained numerous and complex.

Since the beginning of the MONUC mission, a variety of factors have, directly or indirectly, hindered the course of the largest ever UN peacekeeping intervention. In order to better address this issue, MONUC's mandate changed significantly in accordance with the political events in the DRC. Nest et al., (2006: 27) conclude that these political events marked a critical phase in the history of the DRC. MONUC's mandate under Chapter VII of the UN Charter, between 1999 and 2003, was characterised by sign the Lusaka Ceasefire Agreement, the search and sends troops of MONUC in DRC, the observation of the ceasefire and disengagement of forces and put an end to the armed conflict through a mandate of observation (UNSC Resolution (S/RES/1279, para. 5) of 30 November 1999). This period was characterised by the decision of the UN to send a peacekeeping mission observer to the DRC, as reported by Roberto Garreton.<sup>17</sup> Between 2003 and 2006, the UNSC recognised that the DRC had become aggressive and recommended that all foreign armed groups had to respect the sovereignty of the DRC. The UNSC authorised MONUC to use coercive measures, including military force, to maintain or restore peace in situations where it had determined that the existence of a threat against peace, breach of the peace or act of aggression (UNSC Resolution (S/RES/1565)) were present. An armed conflict persisted

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<sup>17</sup> Oral presentation by Mr Roberto Garreton, Special Reporter on the situation of human rights in Democratic Republic of Congo, UNAG Resolution (A/54/361), <http://www.congonline.com/Forum1/Forum04/Garreton01.htm>, [accessed on 18 October 2010].

in the Kivu provinces because of the presence of armed groups, and MONUC entered a peace enforcement phase in order to assist the DRC government to dismantle all armed groups, protect vulnerable civilians from physical violence at the hands of rebels, and establish the authority of the State and the rule of law (para. 4).<sup>18</sup> MONUC's mandate between 2006 and 2010 showed the UNSC's commitment to focus on the protection of civilian populations.

In reality despite the revised mandates given to MONUC by the UNSC, civilian populations remained under physical threat and the problematique of peace and security did not find a sustainable solution. In practice, the institutional liberalism theory, with regard to UN peacekeeping operations revealed some shortcomings, similar to those in the Darfur situation. The Darfur experience was problematic and, even when the UN acted in response to the conflict, especially that it failed to present a way forward in terms of cooperation and negotiation between belligerents. Instead of focusing on protecting the population at risk and facilitating cooperation, the UN condemned and sanctioned the country.<sup>19</sup> As a result, internal conflict erupted in Sudan between Janjaweed Arab militias supported by the government and rebels. Similarly, in Somalia, the UN failed to end a civil war and famine which killed thousands of people (Murphy, 2007: 153-155). Murphy notes that there was no clear precedent for the type of peacekeeping operations envisaged and non-consensual intervention by the UN in the affairs of Somalia. Therefore, in many cases, peacekeeping missions did not achieve their goals. The UN failed to embrace the core objectives under Chapter VII of the UN Charter, because of the influence of five permanent members of the UNSC (China, France, Russian Federation, United Kingdom, and United States). From the above analyses, it was suggested that international organisations do not necessarily have an obvious effect on States, as they may either increase or decrease conflicts (Boehmer, et al., 2004: 3). Grignon et al., (2006: 65) argue that general optimism

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<sup>18</sup> These measures were applied for peacebuilding. MONUC acting under the UN Charter was authorised to use force beyond self-defence, in order to defend the civilian population by means of "necessary measures" including the use of force.

<sup>19</sup> Kuperman, A. 2009. "Rethinking the Responsibility to protect", The Whitehead Journal of Diplomacy and International Relations, [www.strauscenter.org/system/uploads/4/original/Kuperman-Whitehead-R2P-2009-final.pdf?](http://www.strauscenter.org/system/uploads/4/original/Kuperman-Whitehead-R2P-2009-final.pdf?), [accessed on 6 November 2011].

regarding the progress in terms of the DRC peace process from 2001 to mid-2003 has had to be tempered by the on-going situation on the ground. The adoption of a tougher approach since the end of 2004, however, tends to give credibility to MONUC (UNSC Resolution (S/RES/1565) of 1 October 2004). MONUC, in cooperation with other international partners, wanted to participate in strengthening the rule of law in the DRC by providing direct support for the reform of the judiciary and the various legislative reforms stated in the UNSC Resolution (S/RES/1925) of 28 May 2010. Autesserre (2010: 89) criticised the way in which MONUC has used its limited resources, stating that this was inadequate and inappropriate and bound to fail because it did not engage the root cause of the DRC conflict. In spite of the important progress the DRC has made in solidifying its sovereignty since 2006, the UN still has the mandate and the legitimacy in its role as civilian protector and supporter of the Armed Forces of the Democratic Republic of Congo (FARDC) to intervene in situations like this before they spiral out of control.

This study is of the view that without a clear definition of MONUC's mandate based on the realities of the DRC conflict, the political UN observer's mandate was similarly problematic and inadequate. The UN mission in the DRC did not need to put a peacekeeper 'behind a shadow of peacekeeping', as mission officials often stated in order to foresee the problems in the DRC. It needed MONUC's mandate to be more engaged with the FARDC. The MONUC's mandate showed its inability to adopt forceful measures to protect civilians facing assault, and this undermined the very notion of civilian protection.

### **2.2.1 Literature review on peacekeeping**

The concept of peacekeeping<sup>20</sup> was largely related to the UN's mediation operations, since most of these operations in the world have been undertaken under the auspices of the UN (Cox, 1967: 4-5). Diehl (1994: 1-5) indicates that peacekeeping still has

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<sup>20</sup> While aware that there is first generation literature on peacekeeping, this study preferred to interrogate second generation literature on peacekeeping as, the case study, MONUC was a second generation peacekeeping operation.

numerous challenges at the conceptual level and is still known as undefined, contentious and disorganised international operations. However, MacQueen (2006: 2) defined peacekeeping operations as “ambiguous” and evaluated them by posing various questions to highlight their challenges from a conceptual or political perspective. MacQueen challenged the idea that the underlying function of peacekeeping has not undergone any significant qualitative change since the Cold War (Ibid 234). Therefore, Murphy, (2007: xi) suggested that peacekeeping was pioneered and developed by the UN as a means to fulfil its role under the UN Charter: maintenance of international peace and security. Moreover Diehl et al., (1998: 33) points out that the scope of international peacekeeping has undergone dramatic changes since 1990.

According to Bellamy (2004: 17-28), a great deal has been written about the strengths, weaknesses and experiences of peacekeeping, but little reflection has been done in terms of what this tells us about global politics or the role of peacekeeping operations within it. He seeks to redress this imbalance by dividing opinions on the role of peacekeeping into Westphalian and post-Westphalian perspectives. In the former, stable peace was achieved by creating spaces and institutions for States to resolve their differences on the basis of consent, with a view that what goes on within States was not the concern of peacekeepers, unless their hosts invited them to participate. In a less overtly critical strategy, Paris (2003: 441-473) draws on the world polity theory to explain peacekeeping practices. The world polity theory sees the world as possessing a “distinct global culture that comprises the formal and informal rules of international social life”. He argues that peacekeeping mandates and practices emerge not only from prudential calculations about what works, but also from prevailing global norms that legitimise certain kinds of policies and de-legitimised others.

Indeed, the obligations of UN peacekeeping operations are based on a consensual approach (Lagrange, 1999: 12-33). Lagrange argued that these obligations relating to the status of peacekeeping operations subscribed to acts that establish operations and which were listed in the UNSC Resolutions made on the basis of Chapter VII of the UN

Charter.<sup>21</sup> The mandate for peacekeeping operations in this case becomes a source of new obligations in terms of peacekeeping operations and for parties involved in conflict. Diehl et al., (1998: 33-36) concluded that there are various kinds of approaches to clarifying peacekeeping operations. The most common classifications are traditional peacekeeping and second generation peacekeeping operations. Since the end of the Cold War, traditional peacekeeping has become less important, and second generation peacekeeping has become more important. The main objective of these obligations of UN peacekeeping operations is to ensure peace, security and stability at the global and regional levels.<sup>22</sup> Hillen (1998: 26) noted that these second-generation peacekeeping missions were qualitatively and quantitatively different from traditional missions which the UN had characterised as mere 'holding missions'. He noted that even though it was sometimes still called peacekeeping, the concept of a true peacekeeping unit simply interposed between two dormant factions that had evolved into an "untidy and intrusive host of soldiers and civilians who were supposed to demobilise guerrilla armies, run or monitor elections, train police forces and rebuild shattered infrastructures" (*Ibid* 27).

In comparison to the first generation of peacekeeping operations<sup>23</sup>, those in the second generation, including MONUC have a more robust mission, with a multitude of political, humanitarian, social and economic functions, and work with the assistance of civil and military experts from the UN. The MONUC mandate as a second generation operation included comprehensive efforts to maintain peace and security, peacebuilding, administration, human rights, protection of civilians, promotion of democracy, electoral assistance, support for democratic institutions, humanitarian aid, repatriation of refugees and displaced persons, and rebuilding of infrastructure (Dwan and Wiharta, 2005: 142).<sup>24</sup>

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<sup>21</sup> Chapter VII of the UN Charter relating to the operations of peacekeeping and international security.

<sup>22</sup> Statement by the Chinese Ambassador Zhang Yishan at the 2006 Session of the Special Committee on Peacekeeping Operations, United Nations, New York, 27 February. [http://ias.cass.cn/en/show\\_project\\_ls.asp?id=995](http://ias.cass.cn/en/show_project_ls.asp?id=995), [accessed on 6 November 2011].

<sup>23</sup> Traditional/first generation peacekeeping operations: Composed of small numbers of unarmed officers; Monitor ceasefires; Verify troop withdrawal; Patrol borders and delimit zones; and includes the work of military observer missions in addition to acting as a buffer between hostile parties.

<sup>24</sup> UN, Supplement to an agenda for peace: position paper of the Secretary General on the occasion of the 50<sup>th</sup> anniversary of the United Nations, UN document A/50/60-S/1995/1 of 3 January 1995, <http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>, [accessed on 17 September 2012].

From the point of view of this study, the MONUC mandate from the Lusaka Ceasefire Agreement perspectives classified the UN mandate as second generation with particular tasks for peace enforcement. The DRC faced a particular situation of conflict which required both peacekeeping and peace enforcement. However, in 1999, MONUC was established with a mandate of the first generation operation as an observer peacekeeping mission. According to the UNSC Resolution (S/RES/1279) of 30 November 1999 the UN's mandate would be to monitor the ceasefire, because the DRC conflict was a civil war. The biggest evidence of all, perhaps, has been the apparent erosion of the principle of minimum force and what Regehr highlighted as "the developing conventional wisdom that peacekeeping was evolving towards a much greater reliance on the use of force" (Regehr, 1993: 27-37). This falls under the realm of peace consolidation which was an alteration of the MONUC's original mandate. Mainly in intra-state civil wars in today's humanitarian emergencies, the consent of all parties concerned with UN operations has been extremely difficult to achieve and maintain.

With regard to the MONUC mandate in the field of peacekeeping in the DRC, It was noticed it can be noted however that there were many achievements and failures according to the expectations of the Congolese population.<sup>25</sup> Ryan (2000: 27-47) argued that the identification of the different stages of conflict by conflict resolution literature suggests that it was possible to determine the most appropriate point at which peacekeepers should intervene. Armed conflict continued in the two Kivu provinces, despite various peace agreements that were signed between different belligerents in the DRC conflict. This led MONUC therefore on a phase of peace enforcement with a new mission to assist the DRC government to dismantle the Democratic Liberation Forces of Rwanda (FDLR), the National Congress for the Defence of the People (CNDP) and the March 23 Movement (M23) rebel groups, in order to protect vulnerable communities from all forms of violence, and to establish the authority of the State and rule of law

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<sup>25</sup> According to Mr Bura, although UN peacekeeping operations have evolved over time, they have still not managed to address the protection of civilians in an effective way as this constitutes a relatively new role for UN peacekeepers. Olivier Ngambo Bura, Lecturer at the Department of International Relations at University of Kinshasa, Tuesday, 15 February 2010, at his office in Kinshasa/DRC.

(UNSC Resolution (S/RES/1856) of 22 December 2008). The MONUC mandate from observing peacekeeping to peace enforcement will be discussed in the next section.

## **2.3 MONUC'S RESPONSIBILITIES AS DETERMINED BY THE SECURITY COUNCIL**

This section analyses MONUC's responsibilities as imposed directly by the UNSC in relation to its mission in the DRC. It looks at:

1. The role of MONUC troops,
2. MONUC's collaboration with other UN structures and partners,
3. Assistance provided by MONUC to the FARDC,
4. Withdrawal of foreign troops from the territory and the role of the Joint Military Commission (JMC) with regard to the Lusaka Ceasefire Agreement, which was the source of the creation of MONUC.

MONUC, as an official mission of the UN, enjoyed the privileges and immunities recognised under the UN Charter and were mandatory to all UN member States (UN Charter, 1945: Articles 104 and 105).

Following the signing of the Lusaka Ceasefire Agreement (S/1999/815) of 23 July 1999 between the DRC and five regional States (Angola, Namibia, Rwanda, Uganda and Zimbabwe) in July 1999, the UNSC established the UN Mission based on UNSC Resolution (S/RES/1279). Its initial plan was to observe the ceasefire and disengagement of foreign forces, as well as to maintain liaison with all parties to this Agreement. Later, in a series of UNSC Resolutions, the mandate of MONUC was extended to the supervision of the implementation of this Agreement, and it was assigned various additional related tasks.<sup>26</sup>

Analysing the MONUC and its responsibilities is important because it will help to clarify the policies, processes, and practices of the UN in the field of peacekeeping. MONUC,

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<sup>26</sup> Additional tasks included the protection of civilians, promotion of national reconciliation and internal political dialogue, electoral assistance, voluntary return of refugees, provision of training for FARDC, facilitation of DDRRR and DDR, contributing to the promotion of good governance, etc.

as an example of a multidimensional peacekeeping operation in complex emergencies, was directly involved in focusing on the problem of how to achieve security and peace, and to make a difference in the DRC situation. The UN mission also demonstrated the beginnings of an innovative strategy to integrate a variety of approaches into an operation, including coercive protection. Improving protection of civilians in the context of UN peacekeeping operations must therefore be addressed holistically, with a view to improving the performance of all actors who have a stake in protecting innocent civilians from physical violence.

### **2.3.1 Role of MONUC troops according to the Lusaka Ceasefire Agreement**

It is important to recognise that MONUC peacekeeping played a vital role in helping parties in the conflict to end their hostilities. Improvements were achieved in recent years in UN peacekeeping, including the deployment of integrated missions in complex situations, as well as in highlighting the need for embarking on operations with adequate capacity to counter hostilities and effectively fulfil their mandates (UNGA (A/RES/60/1, para. 92) of 24 October 2005).

A key element of the agreement was a request for a UN force for the DRC, even though the UN was not a party to the Lusaka Ceasefire Agreement.<sup>27</sup> A Chapter VI peacekeeping operation was normally deployed to help keep peace, and the peacekeepers were not authorised to use force, other than for self-protection. Chapter VII peacekeeping operations also referred to as “Peace Enforcing” operations, authorise UN peacekeepers to use military force if necessary to restore peace and security. MONUC was a Chapter VI operation with one Chapter VII component that allowed self-protection and limited protection for civilians.

The Lusaka Ceasefire Agreement (S/1999/815) stipulated in its Article III, 11 (a) that:

The UNSC, acting under Chapter VII of the UN Charter and in collaboration with the African Union (AU) (it was called the Organisation of Africa Union (OAU)), was

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<sup>27</sup> The UN was not a signatory to this Agreement, but was invited by all signatory parties as a UN force of monitoring.



requested to constitute, facilitate and deploy an appropriate peacekeeping force in the DRC to ensure implementation of this Agreement. In addition to that, taking into account the peculiar situation of the DRC, mandate the peacekeeping force to track down all armed groups in the DRC. In this respect, the UNSC was requested to provide the requisite mandate for the peacekeeping force.

This Agreement determined the role of MONUC troops and authorised that: the UN, in collaboration with the AU for MONUC's mandate included peacekeeping and peace enforcement operations (Ibid Art. 8). These defined roles were a guide for all MONUC peacekeeping observers to ensure that they did not stray from their mission in the DRC. This UN mission had to be carried out under Chapter VII of the UN Charter in cases of threats against peace, breaches of peace and acts of aggression.

However, Diehl et al., (1998: 33) alleged that the scope of international peacekeeping has undergone dramatic changes. Archer (2001: 111) argued that it was difficult to imagine the contemporary world without international organisations which could potentially play important roles and intervene to keep peace within the international political system. Darby and MacGinty (2003: 7) claimed that economic, ideological and strategic developments can have a major impact on conditions of sustainable peace. When efforts to prevent conflict fail, one of the highest priorities must be to protect civilians from mass atrocities. Throughout the country, DRC civilians were deliberately targeted because the State was the aggressor, and there was a particular risk of genocide. Over the last decade, the UNSC has frequently expanded the mandate of UN peacekeepers so that they can physically protect civilians who are threatened with violence.<sup>28</sup> In September 2005, at the UN World Summit which took place at UN Headquarters in New York in the USA (UN A/RES/60/1), all countries formally agreed that if peaceful methods were inadequate and if national authorities were “manifestly failing” to protect their populations from mass atrocities, States should act collectively in

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<sup>28</sup> Civilians have increasingly become the victims of armed conflict. In response, the UNSC has mandated a number of peacekeeping operations with the protection of civilians (POC) from physical violence. <https://www.un.org/en/peacekeeping/issues/civilian.shtml>, [accessed on 22 June 2011].

a “timely and decisive manner,” through the UNSC and in accordance with the UN Charter.

Below are instances of States that acted to protect civilians against violence:

- In Libya, the international community moved quickly to stop the government from killing its own citizens. UNSC Resolution (S/RES/1973) of 17 March 2011 enabled an international coalition to intervene to stop the killings of those who were protesting against the Gadhafi regime.
- In Côte d'Ivoire, the UNSC unanimously adopted UNSC Resolution (S/RES/1975) on 30 March 2011, condemning the gross human rights violations committed by supporters of both ex-President Laurent Gbagbo and President Ouattara. Violence followed the presidential elections in November 2011, and a UN military operation was authorised to prevent the use of heavy weapons against civilians.
- In the case of Syria, despite rising numbers of dead and displaced people, and dire warnings from the UN's top officials, including repeated warnings from the UNSG, the UNSC was unable to unite behind a common call for action.

While debates have raged as to the legality of various actions led by the USA, the newly established AU learnt the lesson of UN inaction in Rwanda and witnessed effective interventions without the UNSC authorisation. The West African States in Sierra Leone and Liberia, decided to forego the need to seek approval of the UNSC to act on the African Continent. Furthermore, with the coming into force in December 2003 of the Protocol establishing an African Peace and Security Council, African States have introduced the use of four new justifications allowing for the invocation of the use of force. Thus widening the parameters of what is to be considered as legal projection of military might on the continent.

In the case of the DRC, the UNSC Resolution (S/RES/1234, para. 1, 2, 3, 39 and 51) of 9 April 1999 was based on those paragraphs implicitly recognising the act of aggression against the DRC and the natural right of the latter to self-defence, whether individually

or collectively.<sup>29</sup> This political conception of the nature of the DRC conflict by the UNSC resulted in MONUC's troops being inadequately informed with regard to the realities in the field of peacekeeping, and the protection of civilians under the UN and was very soon criticised. Hillen (1998: 22) stated that UN military observers rarely had the military manpower to effectively carry out their mandate without the active cooperation of the parties involved and certainly had no power to coerce them into cooperation. If military observers were in danger from an aggressive environment, they were usually withdrawn or reduced significantly, as in Angola, where civilians were physically threatened with violence.

Nevertheless, there were great achievements along the way. A far more concerted international effort was made than ever before to establish and implement new agendas on a whole range of social, economic and development issues, including women, children, the environment, indebtedness and catastrophic diseases. However, disappointments were also immense: the failure to respond effectively to large-scale atrocity crimes in Rwanda, the DRC, Lebanon and Sudan, and the USA's invasion of Iraq in 2003 without the consent of the UNSC. There was a general sense that the whole UN security system was still too geared towards the central preoccupation of its founders of 68 years ago – States waging aggressive wars against each other – and was not responding adequately to the much wider range of human security threats and challenges likely to be faced in the 21<sup>st</sup> century.

The UNSC Resolution (S/RES/1234) stated that the UNSC must be: committed to safeguarding the national sovereignty and territorial integrity of the DRC and all other States in the region; was concerned by reports that the forces opposed to the government have taken in the eastern part of the DRC in measures violating the national sovereignty and territorial integrity of the DRC; reaffirmed that all States have an obligation to respect the territorial integrity, political independence and national

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<sup>29</sup> UN Charter, Article 51 stated the following: Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the UN, until the UNSC has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the UNSC and shall not in any way affect the authority and responsibility of the UNSC under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

sovereignty of the DRC and other countries in the region, and are obliged to refrain from the threat or use of force against the territorial integrity or political independence of any State; and deplored the continuing fighting and presence of foreign forces in the DRC, in a manner inconsistent with the principles of the UN Charter, and called upon those States to bring an end to the presence of these uninvited forces and to take immediate steps in this regard.

The UNSC as an important body of the UN, which all the nations of the world have entrusted under Article 24 of the UN Charter, with the “primary responsibility for the maintenance of peace and international security” did not recognise foreign aggression in the DRC in UNSC Resolutions (S/RES/1234) and (S/RES/1258). This was in spite of the fact that there were seven official armies fighting on DRC territory. Had the act of aggression been recognised, as well as the violation of the territorial integrity of the DRC and the presence of uninvited foreign forces (because these forces are invited in accordance with Article 51 of the UN Charter), the UNSC would have applied the provisions of the UN Charter including those provided for in Articles 41, 42 and 43. In this case the UN peacekeeping force would have been responsible for the following tasks:

- a) To verify the effective withdrawal of uninvited foreign forces;
- b) To deploy forces at the DRC border, in order to secure it against any recurrence of conflict, as well as the borders of the aggressors.<sup>30</sup>

On the contrary, the UN troops were deployed to ensure the implementation of a very typical agreement that breached the purposes and principles of the UN. In proposing to pursue “all armed groups in the DRC”, the UNSC reduced the regular armed force of the country to the same level as the rebel armed groups and foreign forces.

The argument to pursue all “genocidaires” that took refuge in the DRC and sought to destabilise Rwanda and Uganda, which was presented by the aggressors of the DRC to

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<sup>30</sup> See Article 12 of Lusaka Ceasefire Agreement, which stated that: “the final withdrawal of all foreign forces from the national territory of the DRC shall be carried out in accordance with the Calendar in Annex B of this Agreement and a withdrawal schedule to be prepared by the UN, the OAU and the Joint Military Commission”.

justify their military presence in the DRC territory, was not well-founded, according to many researchers on the DRC crisis (Kabungulu, 2000; Ludo, and Breackman, 2001; Reyntjeans, 2009; Marriage, 2013). The Lusaka Ceasefire Agreement was also an instrument that supported this argument. The aggressors had to wage war and not peace in the DRC, in order for them to justify their argument for continuation, intensification and perpetuation of the war by advocating disarmament of armed groups in the eastern DRC, which were a constant threat to them.

It was surprising in this context that the UNSC Resolution (S/RES/1291) of 24 February 2000 was made almost null and void by the Lusaka Ceasefire Agreement. This UNSC Resolution contradicted and did not entrust MONUC troops with the mandate to protect civilians in accordance with the provisions of the Lusaka Ceasefire Agreement in its Chapter 8.2.1. (f), (Lusaka Ceasefire Agreement (S/1999/815)). Thus UNSC Resolution (S/RES/1291) was therefore in flagrant contradiction to UNSC Resolution (S/RES/1234), which had stated that, the UNSC:

- Condemns all massacres occurring in and around the territory of the DRC, and urges that an international investigation into all such events be carried out with a view to bringing to justice those responsible (para. 7).
- Calls upon all parties to the conflict in the DRC to protect human rights and to respect international humanitarian law. This was in particular, as applicable to them, the Geneva Conventions of 1949 and the Additional Protocols of 1977, and the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (para. 6);

While UN troops were tasked by the Lusaka Ceasefire Agreement in its Article 8, to “provide humanitarian assistance and protection of displaced persons, refugees and other affected persons”, this was therefore in contradiction to MONUC’s missions, as determined by UNSC Resolution (S/RES/1291). UN troops facilitated the delivery of humanitarian aid and ensured compliance with human rights by giving special attention to vulnerable groups, including youth, children and demobilised soldiers provided that MONUC deemed it to be within its capabilities and under acceptable security conditions.

This UNSC Resolution further instructed MONUC “to cooperate closely with the Facilitator of the National Dialogue, to give him support, technical assistance...”, a mission that does not appear in the Lusaka Ceasefire Agreement.

At the period of implementation of the Ceasefire, UN assistance was summarised with the drafting of an agreement and the definition of terms of reference for an observer mission in the DRC, including its human resource needs and equipment. This marginal involvement of the UN was due to reluctance of the UN and the UNSC to fully commit itself to providing assistance in the DRC. It should also be noted that UN involvement came as a result of the request of the Secretary General of the then OAU, and not at the UN’s own initiative (Kabungulu, 2000: 17).

The Lusaka Ceasefire Agreement defined the Joint Military Commission (JMC) as a decision-making body composed of two representatives of each political party (Chapter 7.2 Annex A to the Lusaka Ceasefire Agreement<sup>31</sup>), whose responsibilities included the need to “develop mechanisms for the DDR of armed groups which were in illegal possession of weapons” (Chapter VII.4. (g) and (h)). The tasks of the JMC were inadequate for the reality of working in the field despite contributions from Uganda, Zambia, South Africa, Zimbabwe, the OAU, the USA<sup>32</sup>, various European countries (including Belgium, France, Britain and Sweden<sup>33</sup>) and the EU<sup>34</sup>. As a result the JMC did not function effectively due to limited financial resources which did not allow it to have a permanent structure that would improve its effectiveness.

The Lusaka Ceasefire Agreement was developed consultatively and articulated the nature of the intervention and with all parties involved expecting the UN to provide peace in the DRC and the Great Lakes region. The Lusaka Ceasefire Agreement called

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<sup>31</sup> Lusaka Ceasefire Agreement, Article 9 states that: The JMC, with the assistance of the UN/OAU, shall work out mechanisms for the tracking, disarming, cantoning and documenting of all armed groups in the DRC, <http://www.ieru.ugent.be/lusakaceasefire.pdf>, [accessed on 15 February 2010].

<sup>32</sup> IRIN-CEA Update 787 for the Great Lakes, 26 October 1999. <http://www.africa.upenn.edu/Hornet/irin787.html>, [accessed of 15 February 2010].

<sup>33</sup> IRIN-CEA Update 811 for the Great Lakes, 29 November 1999. <http://www.africa.upenn.edu/Hornet/irin811.html>, [accessed of 15 February 2010].

<sup>34</sup> IRIN-CEA Bulletin 802, 12 November 1999. <http://reliefweb.int/report/burundi/irin-update-802-great-lakes>, [accessed on 15 February 2010].

for the deployment of a Chapter VII UN peacekeeping operation in the DRC. In the spirit of the Agreement, the 'appropriate' UN force was expected to be deployed for several months after its entry into force (which was December 1999) and to carry out both peacekeeping and peace enforcement. With regard to peacekeeping, the mission was to ensure the full implementation of the agreement and disarm the warring parties. In so far as peace enforcement was concerned, the MONUC's mission in collaboration with other UN structures and partners was to track down all armed groups in the DRC while screening for mass killers, perpetrators of crimes against humanity and other war criminals as well as disarming and repatriating members of foreign armed groups.<sup>35</sup>

The Political Committee of the Lusaka Ceasefire Agreement in the DRC, and the mission of the UNSC in the Great Lakes region (UNSC Resolution (S/RES/355, para. 2) of 15 June 2001) aimed to coordinate the humanitarian activities of MONUC together with other UN agencies. This was also the case for the International Committee of the Red Cross (ICRC), which was both a member of the verification mechanism, and of the three parties which worked in collaboration with MONUC (UNSC Resolution (S/RES/1445, para. 2 and 3) of 4 December 2002).

According to UNSC Resolution (S/RES/1856, para. 3, I), MONUC in collaboration with international partners, including the European Union operations European Union Security Sector Reform Mission in the DRC (EUSEC) and European Union Police Mission in the DRC (EUPOL), contributed to the efforts of the international community to assist the DRC government. This assistance was in terms of the initial planning process of the security sector reform, building credible, cohesive and disciplined Congolese armed forces, and developing the capacities of the Congolese national police and related law enforcement agencies. Support for rehabilitation, socio-economic development and humanitarian assistance were the critical areas in which peacekeeping operations played a limited supporting role.

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<sup>35</sup> Accord de Lusaka pour un cessez-le-feu en République Démocratique du Congo et modalités de sa mise en œuvre, 10 July 1999, Grip, <http://www.grip.org/bdg/g1701.html>, [accessed on 28 May 2011].

### **2.3.2 Assistance provided by MONUC to the FARDC for the demobilisation, disarmament and reintegration of combatants**

The technical assistance that the MONUC Mission would provide to the national programme for disarmament, demobilisation and reintegration was closely linked to the mandated security sector reform activities. The national programme of DRR (UNSG Report (S/2008/728, para. 67) of 21 November 2008) received additional funding of \$72 million to fulfil the process from the International Development Association (IDA) and the African Development Bank (AFDB). The national programme continued to work with key partners to plan for the disarmament, demobilisation and reintegration of 131,400 combatants, including 31,200 in the Kivus (*Ibid*). Progress towards the implementation of the programme impacted on, and was affected by, the pace of FARDC integration and the consolidation of the integrated brigades. In this context, the Mission's continuing objective was to promote and optimise coordination between partners and the national authorities, with a view to mobilising the political will and resources needed to complete urgent disarmament, demobilisation and reintegration, as well as army integration tasks.

According to the UNSG's Fourth Special Report on MONUC (S/2008/728), many challenges have remained with regard to the DDR programme. The majority of the new target groups were located in the eastern part of the DRC, where the security situation was not conducive to the implementation of the process. There were many outstanding questions regarding modalities of military integration and disarmament, demobilisation and reintegration, including the link between the regrouping processes, as envisaged in the Operation Amani Leo<sup>36</sup>, and the *brassage*/disarmament process. Furthermore, as many elements within the target groups were expected to be ineligible for disarmament, demobilisation and reintegration because of the strict "one-person-one-weapon" criterion, there was an urgent need to develop alternative assistance packages for those individuals.

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<sup>36</sup> Operation Amani Leo was a national security programme, pacification, stabilisation and reconstruction of the provinces of North Kivu and South Kivu structure. It was created by President Joseph Kabila on 4 February 2008. The objective of the programme was to ensure the implementation of resolutions and recommendations of the conference on peace, security and development in the Kivus as well as commitments signed in Goma, where the conference was held from 6 to 23 January 2008.



In this regard, the UNSC requested MONUC (S/RES/1906, para. 21) in close collaboration with the DRC Government, to continue to coordinate its operations with the brigades of the FARDC Forces deployed in the east, with the understanding that the protection of civilians must come to the forefront of its priorities and that operations must be joint planning with the brigade, according to the guidance document referred to in paragraph 23 below:

- a) To disarm foreign armed groups and [...] or disarmament, demobilisation, repatriation, resettlement and reintegration;
- b) To keep the territories taken by armed groups to protect civilians;
- c) To assist the DRC government to restore its authority over these territories, particularly in the east, in areas with armed groups and occasions in major mining areas;
- d) To intensify efforts to prevent any support from illegal armed groups, including through the grounds of economic activities and illicit trafficking in natural resources.

It should further be noted that paragraph 22 of the same UNSC Resolution identified the conditions for supporting the FARDC. It reiterated, in accordance with sub paragraph (g) of paragraph 3 and paragraph 14 of the UNSC Resolution (S/RES/1856), that the support of MONUC operations conducted by the FARDC forces against armed groups should be strictly based on compliance of the forces with international humanitarian law, human rights law and international refugee law, [...], and if the situation persisted, the UNSC requested MONUC to withdraw its support for these FARDC units.

MONUC was directly involved in combat alongside the DRC's national army, the FARDC, and against the FDLR. Starting in January 2009, MONUC provided support to three military operations in the Kivu region aimed at weakening and eventually eradicating the FDLR. Vircoulon<sup>37</sup> noted that MONUC supported some of FARDC's operations against army groups in the eastern DRC. Launched in January 2009 in North

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<sup>37</sup> Vircoulon T. 2010. After MONUC, should MONUSCO continue to support Congolese military campaigns?, <http://www.crisisgroup.org/en/publication-type/blogs/on-the-african-peacebuildingagenda/after-monuc-should-monusco-continue-to-support-congolese-military-campaigns.aspx>, [accessed on 8 August 2012].

Kivu, Operation Umoja Wetu was spearheaded by Rwandan troops and lasted for only 35 days. It was quickly followed by Kimia II, a ten months campaign in north and south Kivu conducted by the FARDC with MONUC's logistical support. The third military operation Amani Leo began in January 2010. Unfortunately these military operations did not succeed to fully pacify the eastern DRC region in spite of having harsh consequences for civilian populations.

It was evident that there was poor management under operation Amani Leo as the objectives were not articulated properly to all the parties (DRC and MONUC). In this respect, the study emphasised that effective action against the FDLR on the ground in the DRC was imperative. Action was needed by States to fulfil their obligation to take appropriate legal and political measures to cut off the expatriate leadership from its base. Furthermore, action was needed to prevent arms traffic and illicit trade in natural resources, as well as the movements of funds that aided armed groups in the DRC, in particular the FDLR. In addition operation Amani Leo aimed at regaining control of mining sites from the FDLR and combating illegal trafficking in minerals and other natural resources. It was expected that stability in key economic zones would enable the DRC Government to control mining operations and prevent trading in minerals that sustained conflict.

### **2.3.3 Withdrawal of foreign troops from the DRC**

On 2 August 1998 the Banyamulenge from the province North Kivu province, in the town of Goma (Goma is the main town) erupted into mutiny. Rwanda offered immediate assistance to the Banyamulenge. It could, however, be argued that Rwanda offered this assistance on the basis that the Banyamulenge in the DRC and the Tutsi in Rwanda shared the same ethnicity and interests. The Banyamulenge were to later renounce that name and were to be known as the Rally for Congolese Democracy (RCD). The movement was composed primarily of Banyamulenge and backed by Rwanda, and later Uganda was also involved and created Movement de Liberation du Congo (MLC) (Prunier, 2009: 180-182). This group, however, quickly came to dominate the resource-

rich eastern provinces and based its operations in Goma. The RCD quickly took control of the towns of Bukavu and Uvira in the Kivus. The Tutsi-led Rwandan government allied with Uganda, and Burundi also retaliated, occupying a portion of north-eastern DRC (*Ibidi* 179). To help remove the occupying Rwandans, L.D. President Kabila enlisted the aid of refugee Hutus in eastern DRC and began to agitate public opinion against the Tutsis. The rebel offensive was abruptly reversed as Kabila's diplomatic efforts bore fruit. The first African countries to respond to Kabila's request for help were fellow members of the Southern African Development Community (SADC) (Reyntjens, 2001: 311–317). While officially the SADC members were bound to a mutual defence treaty in the case of outside aggression, many member nations took a neutral stance to the conflict. However, the governments of Angola, Namibia and Zimbabwe supported the Kabila government after a meeting in Harare, Zimbabwe, on 19 August 1998 (*Ibid* 319).

The UNSC when passing its Resolutions initially did not point out that: “all States have an obligation to refrain from the use of force against the territorial integrity or political independence” of the DRC. The UNSC Resolution (S/RES/1304, para. 4 a) of 16 June 2000 demanded that Uganda and Rwanda, which violated the sovereignty and territorial integrity of the DRC, withdrew all their forces from the territory of the DRC without delay. This was in order to conform to the timetable of the Lusaka Ceasefire Agreement and the Kampala disengagement plan of 8 April 2000. The UNSC has often looked beyond the Ugandan and Rwandan forces, by stating that “all other foreign forces [...] to take urgent measures to accelerate their withdrawal” (UNSC Resolutions (S/RES/1332, para. 10); (S/RES/1341, para. 2); (S/RES/1355) and (S/RES/1445, para. 3 and 2)). In all plans for the withdrawal of foreign troops,<sup>38</sup> MONUC was only playing a monitoring role when accompanying the parties and reporting to the UNSC. The establishment of a transitional government in Kinshasa, the disarming of rebel groups, and the withdrawal of foreign troops constituted the basis of what was done to advance the peace process in the DRC.

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<sup>38</sup> This study quotes the Lusaka Agreement of 23 July 1999, the Maputo Agreement of 27 November 2000 on the disengagement of forces, the Kampala disengagement plan and the Harare sub-plans.

The withdrawal of foreign troops from the DRC territory was an important key response by the UN peacekeeping operations to the problems of securing peace and protecting civilians. Even with a Chapter VII clause in its mandate to “protect civilians under imminent threat of physical violence”, MONUC initially behaved more like a Chapter VI observer mission, using force only in self-defence and doing little to physically protect civilians. Small contingents of MONUC troops were deployed from March to April 2002, to the strategic rebel occupied north-eastern town of Kisangani. In June 2002, the UNSC approved a revised concept of operations for MONUC, entailing the mission’s presence in Kisangani and strengthening its logistic support capabilities.<sup>39</sup> MacQueen (2006: 11) argued that despite these steps, peace operations remained ‘largely Westphalian’ because they were concerned primarily with regulating a state-based international system. MacQueen was partly right, because the liberal peace theory tells us that democratisation and liberalisation within States are a necessary precursor to peace between them. The adoption of the Pretoria Agreement between the DRC and Rwanda (S/2002/914) on 30 July 2002 was on the withdrawal of the Rwandan troops from the DRC territory and the dismantling of the ex-FAR and Interahamwe forces in the DRC. The Luanda Agreement of 6 September 2002 between the DRC and Uganda entailed that the total withdrawal of Ugandan troops from the DRC, normalisation of relations and cooperation, be amended to provide for a new framework, the work of the Ituri Pacification Commission (IPC). Nearly all Rwandan and Ugandan forces were withdrawn before the end of 2002. Meanwhile, troop withdrawals were also initiated by Angola, Burundi, Namibia and Zimbabwe, and it was especially mentioned that MONUC observed the departure of foreign forces.<sup>40</sup> MacQueen argued that an increasing number of peace operations were primarily concerned with the internal nature and composition of States themselves rather than with relations between States.

MONUC’s DDRRR programme officially began on 22 February 2001, after the UNSC passed UNSC Resolution (S/RES/1341), which authorised the deployment of 550 UN military observers to the DRC and set a timetable for the signatories of the Lusaka

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<sup>39</sup> MONUC mandate to oversee the complete withdrawal of foreign troops from DRC territory <http://books.google.co.za/books?isbn=1857432541>, [accessed on 10 April 2013].

<sup>40</sup> MONUC mandate to oversee the complete withdrawal of foreign troops from DRC territory (Ibid).

Ceasefire Agreement to withdraw their military forces (Kisangani et al., 2006: 113). In practice, however, it was not until the second half of 2002 that implementation began in several towns, and this was only on an ad hoc basis pending deployment of the two task forces, which were based in Kindu and Kisangani, as recommended by UNSG's special report (S/2002/1005) of 10 September 2002.

In a Presidential statement, read by UNSC President Adolfo Aguilar Zinser (Mexico), the UNSC welcomed the 10<sup>th</sup> report of the UNSG mission in the DRC (S/2002/169) and stressed that the DDRRR process of armed groups was another key element in the settlement of the conflict. It requested, in this regard, MONUC to first do an assessment of the number of members of Rwandan armed groups in the territory, based on which the UNSC would determine whether or not further support should be given to MONUC in the execution of the task of withdrawal of foreign troops from the DRC.<sup>41</sup> This Presidential statement was wholly inadequate in terms of Annex A, Chapter 9.1, of the Lusaka Ceasefire Agreement. This inadequacy of tasks in relation to the realities of the conflict limited the Lusaka Ceasefire Agreement and MONUC mandate to be fully implemented. So far, this created same armies' groups with different names as RCD-Goma, RCD-ML, RDC/KM, MLC, Mai-Mai, CNDP, and M23.

## **2.4 MONUC'S MANDATE IN THE FIELD OF PEACEKEEPING OPERATIONS AND SECURITY IN THE DRC**

This section analyses MONUC's mandate in the field of peacekeeping operations relating to the different resolutions passed by the UNSC regarding various acts of aggression and rebellions in the DRC. After the double trauma of massacres of civilians by different armed groups mentioned above, in Ituri (2003) the capture of Bukavu (2004) and severe criticism from the Congolese population, opinions showed that MONUC was limited use of force.

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<sup>41</sup> UNSC, in Presidential statement, reiterates call for withdrawal of all foreign troops from DRC, (SC/7306) of 25 February 2002, <http://www.un.org/News/Press/docs/2002/SC7306.doc.htm>, [accessed on 10 April 2013].

MONUC's activities were operational guidelines laying down the conditions under which fighting units of the UN Mission could use their firepower, especially for military UN helicopters. These guidelines were provided by the Commander of MONUC, in order to allow the Chief Commanders of units to make decisions based on the evolving situation on the ground, without having to systematically refer to the Staff Commander Force in Kinshasa. This was made possible by a combination of elements under the UNSC Resolution (S/RES/1565, para. 3) of 1 December 2004. For example, Diehl and his colleagues pointed out that other typologies forgot that operations might involve the performance of multiple tasks simultaneously or alternating between different types (Diehl et al., 1998:38). In this regard, it was decided to increase MONUC's strength by 5,900 personnel, including up to 341 civilian police personnel, as well as to deploy appropriate civilian personnel and proportionate air mobility assets and other force enablers. The above UNSC Resolution expressed its determination to keep MONUC's strength and structure under regular review, taking the evolution of the situation in the field into account. MONUC was limited to deploying and maintaining a presence in the key areas of potential volatility, in order to promote the re-establishment of confidence and discourage violence, in particular by deterring the use of force to threaten the political process, and allow UN personnel to operate freely, particularly in the eastern part of the DRC.

MONUC's experiences illustrate some elements of civilian protection and its requirements. The mission also demonstrated the beginnings of an innovative strategy to integrated differing approaches within an operation, including coercive protection. Firstly, a lack of capacity limited what the UN Mission could do to protect people. With on-going insecurity in the DRC, consent based, no-interventionist methods of protecting civilians proved largely ineffective, and MONUC initially had insufficient troop strength, equipment, and firepower to engage in coercive protection. Secondly, MONUC needed conceptual clarity as to the meaning and scope of its protection mandate. Mission leadership did not start with a coherent strategic framework for civilian protection and for how much force the mission should exercise. After years of struggling, MONUC had begun to develop and implement such a framework.

The following section focuses on the results of the incompatibility of the MONUC's mandate of observation in the various aspects of peacekeeping operations in the DRC.

#### **2.4.1 MONUC's observation mandate with regard to the conflict in Kisangani**

Few provisions were made to actually disarm the armed groups in the DRC. The UNSC deployed about 90 MONUC peacekeepers in August 1999 with the observation mandate to support the Lusaka Ceasefire Agreement implementation (UNSC Resolution (S/RES/1258, para. 7) of 6 August 2000. In addition, their observer mandate was also to establish contacts and maintain liaison with the JMC and all parties to the Lusaka Ceasefire Agreement (*Ibid* para. 8). However, in the months that followed all sides accused the others of repeatedly breaking the ceasefire, and it became clear that small incidents could trigger attacks.

Tension was building up between Rwanda and Uganda on taking control of Kisangani, with both countries trading accusations that one was preparing to launch a war against the other. Their relations hit low ebb with the Ugandan government alleging that the Rwandan army and their allies of the Rally for the Congolese Democracy (RCD-G) rebels attacked and captured the north-eastern town of Kanyabayonga, in North Kivu. On 5 April 1999 tensions within the RCD-G about the dominance of the Banyamulenge reached a boiling point when RCD-G leader Ernest Wamba dia Wamba moved his base from Goma to Uganda-controlled Kisangani to head a breakaway faction named Forces for Renewal (ICG 2000: 9-12).

The Ugandan and Rwandan official armies clashed three times in Kisangani between May and August 1999 and June 2000, killed 3000 both civilian population and soldiers, and destroyed infrastructures (Marriage, 2013: 5). The key reason for these clashes was the battle for the control of Kisangani which has vast gold reserves and is strategically located near the Congo River. The battle used heavy weapons spanned between 5 and 10 June 2000, and saw human rights violence and defiance of

international humanitarian law.<sup>42</sup> Despite the presence of MONUC observers when these armies clashed, the UN deployed 5,537 peacekeepers and 500 observers with the same observer mandate, but declined to oppose the massacres forcefully or send patrols to deter human rights abuses<sup>43</sup> (UNSC Resolution (S/RES/1291, para. 4)). Nevertheless, this UNSC Resolution contradicted the Lusaka Ceasefire Agreement which was asking the MONUC to have an enforcement mandate. The events in Kisangani led to some of the first discussions in the UN Department of Peacekeeping Operations (DPKO) on the meaning of civilian protection as a military task for MONUC's engagement and the ability of MONUC to intervene in such conditions (Holt and Berkman 2006: 160). The objective of MONUC's DDR and DDRRR processes were the return to civil peace through the disarmament of all foreign-armed groups named in the Lusaka Ceasefire Agreement who were based in the DRC and the return of former combatants to their respective countries of origin. Following the Kisangani massacre, UN headquarters personnel were aware of MONUC's shortcomings in protecting civilians, even if they might not have envisioned the exact implications of an overambitious mandate and undermanned peace effort.

This period was characterised by mixed results with respect to the mandate of MONUC's peacekeeping operations in the field. Between February and December 2000, the Lusaka Ceasefire Agreement was repeatedly violated by the parties to the conflict, who continued to clash at various front-lines. The fiercest battles were fought against those who opposed the Rwandan Patriotic Army (APR) troops from Rwanda and the Ugandan Peoples Defence Force (UPDF) from Uganda in May 1999. In August 1999, with increasing international pressure for the RCD-G to sign the Lusaka Agreement (S/1999/815), the latent crisis between Rwanda and Uganda for the control of RCD-G had degenerated into open conflict in Kisangani. On the morning of 7 August 1999, soldiers of the APR and UPDF clashed for several hours using heavy weapons,

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<sup>42</sup> Heavy fighting continued in rebel-held Kisangani for a third day on Monday, apparently between Rwandan and Ugandan forces backing different factions of the rebels. <http://www.africa.upenn.edu/Hornet/irin736.html>, [accessed on 15 February 2013].

<sup>43</sup> Baldo S. and Bouckaert P., War Crimes in Kisangani: The Response of Rwandan backed Rebels to the May 2002 Mutiny, No. 6(A) (Human Rights Watch, August 2002), 2. [www.hrw.org/reports/2002/drc2/DRC0802.pdf](http://www.hrw.org/reports/2002/drc2/DRC0802.pdf), [accessed on 15 February 2013].



without causing any injuries among civilians. In the days that followed, the situation grew calmer. However, after this, tension began to rise steadily and both sides reinforced their positions and distributed large amounts of arms throughout the city.<sup>44</sup> In the wake of the Kisangani massacres the UN's inclination to tone down civilian protection if it felt that aggressive action could offend the conflicting parties, was again displayed (Holt and Taylor, 2009: 258).

After the war ended, Rwandan and Ugandan soldiers raided several locations in Kisangani.<sup>45</sup> After three days of fighting, representatives of Uganda and Rwanda signed a ceasefire to provide for the demilitarisation of Kisangani and relocation to Bunia on 1 October 1999, at the headquarters of the Ugandan branch of the pro-RCD, RCD-Kisangani Liberation Movement (RCD/KML), which was led by Professor Ernest Wamba dia Wamba. Over the following months, the Eastern Province was divided between a "Rwandan zone" controlled by RCD-G and a "zone of Uganda", which was dominated by the different movements supported by Kampala.

In May 2000, however, tension between Ugandan and Rwandan armies in Kisangani arose again. The UPDF reinforced its military positions in the northeast of the city and the APR responded by acquiring additional weapons. On 5 May 2000, the APR and UPDF made use of heavy weaponry in densely populated areas, killing over 24 civilians and injuring an undetermined number of others. Before the start of hostilities, the Ugandan army had warned the public of the imminent bombing and asked for the evacuation of several schemes in the vicinity of their targets.<sup>46</sup>

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<sup>44</sup> On the evening of 14 August 1999, fighting resumed between the two armies at the airport before spreading to major highways and the city. From 14 to 17 August 1999, soldiers of the RPA and UPDF used heavy weapons in densely populated civilian areas in a battle to gain control of the city of Kisangani.

<sup>45</sup> See UN Mapping Rapport: Interviews were done with the Mapping Team, Orientale Province, in December 2008, <http://www.ohchr.org/en/Countries/AfricaRegion/Pages/RDCProjetMapping.aspx>, [accessed on 15 February 2011].

<sup>46</sup> See UN Mapping Rapport: Interviews with the Mapping Team, Orientale Province, in November 2008, <http://www.ohchr.org/en/Countries/AfricaRegion/Pages/RDCProjetMapping.aspx>, [accessed on 15 February 2011].

Through international mediation, a team of UN military observers arrived in Kisangani on 12 May 2000. Both parties agreed on a plan to demilitarise the city, which began on 29 May that year. However, fighting resumed, leading to the war known as “Six Days” from 5 to 10 June 2000. This limitation, however, was extended to humanitarian personnel, including the International Committee of the Red Cross (ICRC), which had been assisting the wounded for several days.<sup>47</sup> However, MONUC still remained totally powerless against the deterioration of the situation with its observer mission. The Congolese people questioned the importance of the UN presence in the DRC, asking what MONUC was doing while foreign troops clashed in Congolese territory.<sup>48</sup> Wanting to avoid further clashes between Ugandan and Rwandan troops based in Kisangani, MONUC had initiated discussions with the military hierarchies of the two armies, namely the RPA and UPDF. This allowed it to reach an agreement on the withdrawal of troops from the town and cantonment within a radius of 100 km or less. In Kisangani, when the Rwandan army and RCD-G had left town, the Ugandan army and the Movement for the Liberation of the Congo (MLC) made a reluctant commitment to demilitarisation.<sup>49</sup> This gives credence to the argument advanced by this research; that the UN’s initial mandate on the DRC conflict was inadequate for the realities of the conflict. It can be argued that in the initial form the UN’s mandate on the DRC conflict was bound to fail as it seemed to promote dialogue as a means to an end on the then on-going conflict. The reality was that of a full scale war and so an observer mission was not suited for that reality.

Thus, the mandate of MONUC had been readjusted and the UNSG was forced to change its mission in the DRC from observation mandate to peacekeeping with particular attention to the civilian population. The UN was forced to first change its conception of this conflict and then take appropriate decisions. UNSC Resolution

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<sup>47</sup> See the interviews with the Mapping Team, Orientale Province, in November 2008 and February 2009, <http://www.ohchr.org/en/Countries/AfricaRegion/Pages/RDCProjetMapping.aspx>, [accessed on 15 February 2011].

<sup>48</sup> Interview with Mr Olivier Ngambo Bura, Lecturer at Department of International Relations at University of Kinshasa, Tuesday, 15 February 2010, at his Office Kinshasa/DRC.

<sup>49</sup> International Crisis Group, 2000. Uganda and Rwanda: Friends or Enemies? Africa Report N°144, <http://www.crisisgroup.org/en/regions/africa/central-africa/rwanda/014-uganda-and-rwanda-friends-or-enemies.aspx>, [accessed on 15 February 2011].

(S/RES/1291) authorised the expansion of MONUC, by increasing its troops to 5537 military personnel and decided on the mandate of MONUC. In addition to this new mandate, MONUC was authorised to use the necessary measures in the areas of deployment of its infantry battalions. It was also deemed to be within its capabilities to protect the UN personnel, facilities and equipment, to ensure freedom of movement of its personnel and protect civilians under imminent threat of physical violence.

The contradiction between the Lusaka Ceasefire Agreement and the UNSC Resolution was evident in on the mandate of MONUC that led to the clashes in Kisangani. According to the understanding of the UN, this mission was not interposition, much less intervention, because the Lusaka Ceasefire Agreement was destined to bring peace in the DRC. However, this point of view was inadequate with the realities of the DRC conflict. The mandate of MONUC should have been to integrate the importance of protecting the civilian population at the beginning of its mission. In order to achieve its mission in the DRC, MONUC's bases with a large logistic system were installed in the Congolese cities of Mbandaka, Kananga, Kindu and Kisangani. Particular attention was paid to Kisangani, a city where Rwandans and Ugandans were living and where they could, at any time clash again and compete for control.

#### **2.4.2 MONUC's response to the massacre of civilians in Ituri**

The district of Ituri, situated in the Oriental Province of the DRC, was an area of spiralling violence. The conflict of 2003 in the eastern DRC, particularly in this district was a major concern and UNSC finally granted MONUC the mandate and provided necessary resources to improve the humanitarian and security situation in the field. In its mission of maintaining peace and security in the field, MONUC had not been challenged as much as it was in the district of Ituri in Bunia. However, this intervention, authorised by UNSC Resolution (S/RES/1484) of 30 May 2003 was clearly totally insufficient and turned out to be a quagmire for the UN troops in the DRC. The war on 2 August 1998 had finally taken a turn in this particular area, which was occupied by

Ugandan troops.<sup>50</sup> Clashes between Hema (elevators) and Lendu (farmers) over land ownership and rights over land for grazing have broken out on several occasions in the last three decades. However, the deadliest phase of the tension between the two communities started in May 1999. Each group attempted to expel the other from contested areas in a policy of local ethnic cleansing.<sup>51</sup>

Indeed, as with Rwanda with the agreement of 31 July 2002 in Pretoria (UNSG Report S/2002/914), the DRC concluded an agreement with Uganda on 6 August 2002 in Luanda for the peaceful settlement of their conflict. However, in the field, the Ugandans, who had looked with such lust at Ituri's natural resources (gold, oil, etc.) since 1998 did not want to return to their country.<sup>52</sup> Thus, in order to extend their presence in the region, they created a scenario to pit the Lendu against the Hema, thus fuelling their hatred towards each other. MONUC, however, remained totally powerless over the deteriorating situation in Ituri, which was characterised by fighting between small armed groups, and inter-ethnic violence from February 2003 onwards. It had to have the physical capability and political backing to use its Chapter VII mandate robustly against some degree of potential armed opposition and was geared towards the restoration of DRC sovereignty. Roessler and Prendergast (2006: 279) criticised the fact that MONUC only had ten military observers in the region in 2002 and little solid intelligence even though it had known since 2001 that the situation was 'highly explosive'. The inability of the UN mission to stem the surge of violence (UNSC Resolution S/RES/1484) led the UNSG to seek the timely intervention of a force from the European Union (EU).

In June 2003, the EU sent Operation Artemis, its first military mission outside Europe and independent of NATO, to the DRC. While it ultimately received an EU badge, its

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<sup>50</sup> Human Rights Watch called upon the Ugandan government to give clear instructions to Ugandan forces deployed in the DRC to provide security for the civilian population and for humanitarian workers and to comply with the Geneva Conventions of 1949 and Protocol I of 1977. [http://www.hrw.org/reports/2001/drc/drc0301-04.htm#P154\\_13574](http://www.hrw.org/reports/2001/drc/drc0301-04.htm#P154_13574), [accessed on 15 February 2011].

<sup>51</sup> Those communities were both the central actors and victims of ethnic strife over communal access to land, mineral resources and local power. <http://www.irinnews.org/in-depth/70762/33/drc-background>, [accessed on 15 February 2011].

<sup>52</sup> Human Rights Watch interview, Bunia, December 9, 2000. "Uganda alternated the roles of the arsonist and fire-fighter in this conflict." UPDF Role in Training RCD-ML Recruits in 2000, <http://www.hrw.org/reports/2001/drc/drc0301-06.htm>, [accessed on 17 February 2011].

origin, command and control were French. The objective of Operation Artemis was to contribute to the stabilisation of the security conditions in the district of Ituri, to improve the humanitarian situation, and to ensure the protection of displaced persons in the refugee camps in Bunia. Its mandate was to provide a short-term interim force for three months until the transition to the reinforced MONUC. The EU's Interim Emergency Multinational Forces arrived in Ituri with 1 400 troops under Chapter VII of the UN Charter to bring stability to Bunia in close coordination with MONUC (UNSC Resolution S/RES/1484). However Operation Artemis was allowed to pursue its own objectives, largely without political interference. The EU forces comprised about 100 French and 70 to 80 Swedish Special Forces, helicopters, armoured vehicles, and the ability to call on French fighter aircraft in Uganda (Holt and Berkman, 2006: 170).

Although limited in time, scope, geographical area of action, clear mandate and objective, and the number of forces involved, Operation Artemis was nevertheless significant in many different ways. MONUC had subsequently had mixed success in continuing the pacification of Ituri because of its observation mandate with many tasks. Another factor to notice was that none of the participants in Operation Artemis were willing to re-hat with MONUC. This placed the mission's credibility at risk since MONUC lacked the Special Forces, intelligence and over flight capabilities that were crucial to the success of Operation Artemis. In addition, Operation Artemis has been a remarkably positive experiment in cooperation between the UN and a regional organisation, in the domain of peace and security. Perhaps more importantly, it also had the political will to use force when needed, something for which MONUC's troop-contributing countries were loath to provide. Operation Artemis, however, provided a stopgap to the UN, limited in time and space than was MONUC, which allowed it to better prepare the transition from peacekeeping, to peace enforcing. In a situation where, particularly, there was not much peace to keep, but rather a war in progress (which had to be stopped) and a peace to build (Malan and Gomes, 2003: 210). Its mandate was limited to the northwest area of the Ituri District, it lasted for three months, and it benefited from the groundwork that MONUC had already laid.

While the situation seemed to be improving in Bunia, armed groups continued to operate, and safety for the population did not exist. Several cases of killings were therefore recorded.<sup>53</sup> The strengthening of MONUC's mandate in July 2003 was in response to this concern, as well as the current deployment of peacekeepers throughout Ituri. Even then, MONUC's mandate did not, on face value, provide for a stronger mandate to protect civilians whereas UNSC Resolution (S/RES/1291, para. 4), called on MONUC to take necessary action to protect civilians under threat of imminent violence in deployment areas of its infantry battalions. UNSC Resolution (S/RES/1493, para. 25) of 28 July 2003 authorised MONUC to take the necessary measures for a similar purpose but within the deployment areas of its armed forces.

The MONUC, however, failed to secure the civilian population in Ituri. The town was thrown into chaos by two weeks of fighting between Lendu and Hema, and ethnic cleansing occurred next to the UN compound. In short, this meant that the chasm between mandate and capacity was narrowing, thereby bestowing on the mission the means to fulfil its civilian protection clause. Therefore, MONUC reinforced its presence on 1 September 2003 with additional troops.

#### **2.4.3 MONUC's mandate with regard to the war in North Kivu**

After the Ituri's conflict, the mandate of MONUC was strengthened to improve the situation in the North Kivu. The UNSG asked for an increase of 13,100 soldiers (UNSC Resolution (S/RES/1565, para. 3 and 4) of 1 October 2004) and authorised a reinforcement of 5,900 military personnel and defined the mandate with strategic military objectives. The mandate allowed MONUC to deploy and maintain a presence in the key areas of potential volatility in order to promote the re-establishment of confidence, to discourage violence, in particular by deterring the use of force to threaten the political process. It also allowed MONUC's personnel to operate freely, particularly in the Eastern part of the DRC. In addition, MONUC was mandated to ensure the

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<sup>53</sup> International Coalition for the Responsibility to Protect, "Crisis in the Democratic Republic of Congo", the report estimates vary between 7 million deaths throughout the DRC since the beginning of the war. <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-drc>, [accessed on 22 June 2012].

protection of civilians, including humanitarian personnel, under imminent threat of physical violence (*Ibidi* para. 4). Since the 1990s, the DRC, and particularly the eastern provinces of North Kivu, South Kivu and Orientale were shattered by a human tragedy which has been described as the deadliest conflict since World War II (Coghlan, B. et al., 2006: 44-51), culminating in 'Africa's First World War' (Reyntjens, 2009: 195-200).

Despite the formal end of the war in 2003, Eastern DRC was facing one of the world's most complex humanitarian crises, marked by the presence of numerous armed groups, massive displacement, land and food insecurity, and extreme poverty (Reyntjens, 2009: 207). Violence directed against civilians erupted continuously in an unpredictable way, hence inhibiting the achievement of a stable situation which would enable state and civil society institutions to be rebuilt (Cox, 2012: 2). The eastern DRC was paying the price for the 32 years of Mobutu's bad governance, which led to the collapse of the national state, and ultimately led to the war. MONUC thus proved that it lacked capacity to promote conflict resolution as clearly mentioned in all UNSC Resolutions (ICG, 2003: 27).

The situation in Ituri which was headlines news deteriorated and was but also part of a larger set of inextricably linked challenges to peace that applied throughout Eastern DRC. The situation in the Kivus provinces was arguably more tragic and with potentially more far reaching consequences. Serious fighting took place, both direct and proxy confrontation between local, national and regional participants in the DRC conflict since the Lusaka Ceasefire Agreement was signed in 1999. This Rwandan genocide and the aggression of the DRC led to the creation of informal groups based in eastern DRC such as the Democratic Liberation Forces of Rwanda (DFLR), Mayi-Mayi, RCD, CNDP, Lord's Resistance Army (LRA), M23, and Allied Democratic Forces Nalu (ADF-Nalu), (Stearns, et al., 2013: 15-30).

The Kivus provinces were the powder keg where ethnic massacres first exploded in the 1990s and regional wars in 1996 and 1998. The situation was complicated by direct military involvement of external actors, multiplication of local warlords and active

exploitation of natural resources by both. All regional actors were making concerted efforts to mould the provinces to their own strategic needs. The withdrawal of most Rwandan and Ugandan troops in 2002 did not fundamentally change this dynamic.

Insecurity persisted in the East, despite the presidential elections, specifically in Ituri and Kivu. As the simmering ethnic hatred between Hutus and Tutsis boiled over in the form of genocide in Rwanda, the spill over reached the Kivu provinces in the eastern DRC, such that 'in a matter of days in October 1996, a large swathe of eastern Zaire erupted into an orgy of violence' (Lemarchand, 1997: 173).

The rebel soldiers ousted General Laurent Nkunda's Tutsi, formed the National Congress for the Defence of the People (CNDP) and fought with the FARDC. Doubts were raised as to whether both Nkunda and the government were genuinely committed to it. The process offered Nkunda the opportunity to strengthen his authority in North Kivu, legitimised his operations against the FDLR and replenish his ranks.<sup>54</sup> Many attempts at a cease-fire, which led to the signing of the Deed of Commitment for lasting peace in the two Kivu provinces at the peace conference in Goma on 23 January 2008, were made between all parties. However, none were really effective for all dissident troops. In the autumn of 2008, the CNDP launched a major offensive against government positions in North and South Kivu, and MONUC was obliged to use force against the CNDP (UNSG letter (S/2008/703). In order to stabilise the region, the UN, through its UNSC Resolution (S/RES/1843, para. 2) of 20 November 2008 provided for a temporary increase in the authorised military personnel (2785 items) and police units (300 units). This UNSC Resolution also stipulated the immediate deployment of additional resources until 31 December 2008, and intended to extend this authorisation in connection with the extension of MONUC's mandate, noting that the length of stay for additional forces would depend on security conditions in the Kivu provinces.

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<sup>54</sup> International Institute for Strategic Studies, 2007. Instability in North Kivu Fears of another Congo war, Volume 13 Issue 09 November 2007, [www.iiss.org/stratcom](http://www.iiss.org/stratcom), [accessed on 22 June 2012].



FARDC and MONUC were, however, not able to stop the rebel offensive backed by Rwanda, and the CNDP thus seemed to be well positioned to take the provincial capital of Goma. UNSC Resolution (S/RES/1856, para. 1), asked MONUC to attach the highest importance to the crisis in the Kivu provinces, particularly in terms of the protection of civilians, and to gradually concentrate its efforts during 2009 on Eastern DRC. From its inception until about the end of 2008, the CNDP seemed to present the largest threat to the DRC government, and the FARDC even occasionally allied with the FDLR against Nkunda's group (ICG, 2007: 102-113). However, in early 2009, following an apparent rapprochement between the governments of the DRC and Rwanda, Nkunda was deposed as head of the CNDP and arrested in Rwanda, and the CNDP members were assimilated into the FARDC through an 'accelerated' process (UNSG Report (S/2009/603, para. 180-199)). While the integration process was deeply imperfect, it cleared the way for ex-CNDP to fight alongside the FARDC to disarm the FDLR.

It was then, in a turnabout, that the DRC and Rwanda experienced a reversal of alliances. General Laurent Nkunda was replaced by General Bosco Ntaganda as the head of the CNDP, who signed a peace agreement in March 2009, in which Ntaganda committed himself to in the peace agreement and to integrate the national army. In exchange, the combined forces of FARDC (enriched by CNDP soldiers) and the Rwandan army launched a military campaign against rebel Hutu FDLR (Autesserre, 2010: 164). Autesserre noted thereafter, that only FARDC, supported by MONUC, fought the Rwandan dissidents. This situation placed MONUC in an awkward position because FARDC had committed atrocities against civilians during the fighting.<sup>55</sup> MONUC was pursuing its activities in relation to the DDRRR. The large number of crimes against humanity, which were rampant in these areas, resulted in MONUC embarking on a special fight against impunity. This situation was complex because a few months previously, on 19 June 2008, the UNSC Resolution (S/RES/1820) stated that rape and other forms of sexual violence could constitute a war crime, a crime against humanity or a constitutive act of genocide.

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<sup>55</sup> Interview with Mr Mamadou Kuyate, MONUC Head Office Pretoria / RSA, Friday, 1 October 2010, in Pretoria / RSA.

The CNDP exposed the weaknesses in MONUC's operational capacities, especially its inadequate troop levels, lack of coherence and poor understanding of the utility of force. When Nkunda and his troops also entered the town of Goma, MONUC was not able to resist the thousands of rebels and many peacekeepers fled into their compounds, leaving the population to defend themselves (Holt and Berkman, 2006: 162-164). More fundamental was the misunderstanding within the mission of the UN's role in the DRC.<sup>56</sup> High-ranking officials in the UN have suggested that MONUC did not have a coherent military strategy to speak of and this coupled with a wider doctrinal void within the UN, contributed to serious failures.<sup>57</sup> MONUC's mandate therefore fell dramatically short of what was needed for a successful peace process in the Kivu provinces.

#### **2.4.4 MONUC's role in Operation Kimia II**

In March 2009, Generals Etumba Didier, Chief Staff of the FARDC, and Babacar Gay, Force Commander of MONUC, signed a Joint Operations Management Kimia II in a commitment to military operations against the FDLR.<sup>58</sup> In terms of the agreement, MONUC was mandated to support FARDC with logistics, food, fuel and direct involvement in operations related to tracking down the FDLR (UNSC Resolution (S/RES/1856, para. 3). In all this, support was given to FARDC, in order to avoid their usual excesses, which ultimately violated the rights of civilians. The commitment of MONUC was evident in its concern for the protection of civilians.

During 2009 and 2010 two joint FARDC/MONUC military operations took place. In 2009 Kimia II was established, which aimed at eliminating the FDLR threat. Upon conclusion of the operation, MONUC determined that the FDLR's strength was reduced by half, from approximately 6,000 to an estimated 3,200 elements (Reynaert, 2011: 19). However, Reynaert argued that Kimia II caused major internal displacements

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<sup>56</sup> See the UN's report on MONUC and the Bukavu Crisis of 2004 (March 2005). While the report deals in some detail with the failures within the mission, it fails to properly address any institutional or operational failures by the UN itself.

<sup>57</sup> Interview with Mr Mamadou Kuyate, MONUC Head Office Pretoria / RSA, Friday, 1 October 2010, in Pretoria / RSA.

<sup>58</sup> Ibid.

(approximately 500,000 IDPs) and many civilian casualties. MONUC's efforts to root out militia and push them further into the bush resulted in increased population displacement as militia destabilised new areas. Furthermore, by using force against particular groups, MONUC found that aid organisations reduced their cooperation if they feared that they would lose access to vulnerable populations and endanger the safety of their unarmed workers. Moreover, the population faced attacks from undisciplined FARDC elements, as a result of the fast-tracked integration of former militias and rebel groups, especially the CNDP, into the regular army. It was fully consistent with MONUC's mandate for its armed units to participate in operations that were led by FARDC integrated brigades and jointly planned with the FARDC with a view to forcibly disarm recalcitrant FDLR elements, in order to ensure their participation in the DDRRR process, and preventing the provision of support to the FDLR, including support derived from illicit economic activities. However, Kimia I and II were two operations that took place in different contexts. In fact, while Kimia I took place in the context in which the DRC government was simultaneously facing the rebellion of Laurent Nkunda in North Kivu, Kimia II intervened, in March 2009, in the context of peace-making in Kivu. This happened after the CNDP rebels decided to make peace with the DRC government. Oxfam affirmed in 2007, that MONUC "brought stability and security to large parts of the country" (Oxfam, 2007). However, Oxfam had also already found that MONUC overstretched its resources and that it should focus on the protection of civilians. Criticism was directed by Oxfam at the UN involvement during the operation of Kimia II in 2009. Kimia II was a joint military operation between the FARDC and MONUC against the FDLR in the eastern part of the DRC.

The UNSC Resolution (S/RES/1906) was innovative, in that it determined that MONUC, under the conditionality policy, may suspend support to FARDC brigades violating human rights.<sup>59</sup> This policy regulates the cooperation between MONUC and the FARDC in joint military operations, offering leverage to the UN peace mission in the sense that

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<sup>59</sup> Human Rights Watch called on the UN peacekeeping force in Congo, MONUC, to immediately suspend its support to the military operation or risk being implicated in further atrocities. <http://www.hrw.org/news/2009/11/02/eastern-dr-congo-surge-army-atrocities>, [accessed on 15 February 2012].

its support may be withdrawn from those brigades whose senior elements have committed human rights violations.

In January and March 2009, the political situation in the DRC experienced a dramatic turnaround. It could be said that secret talks between the Congolese, Rwandan and some senior CNDP members took place in order to exclude Laurent Nkunda from the discussions. Indeed, after the intervention of Rwandan forces in the DRC, the CNDP leader, Laurent Nkunda, was forced to leave, abandon the rebellion and agree to integrate the ranks of the FARDC, if the DRC government agreed to launch joint military operations with the Rwandan army against the FDLR.<sup>60</sup> It should be noted that one year after the launch of Kimia II, the Congolese population in general and that of Kivu in particular were satisfied and the image of MONUC had suddenly and dramatically improved. It was interesting, according to Weir and Smith<sup>61</sup>, to see how the protection of civilians by MONUC had changed, especially in North Kivu.

In operations that aimed to protect civilians against attacks, primarily by FDLR, MONUC, in co-operation with the people of North Kivu, had established a system of monitoring and reporting (monitoring centres and appeals that worked effectively for everyone). Call centres were open day and night, and were equipped with an interpreter and MONUC soldiers, who could direct the patrols to the places where incidents were occurring.<sup>62</sup>

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<sup>60</sup> Human Rights Watch « La MONUC et la protection des civils » <http://www.hrw.org>, [accessed on 7 May 2010].

<sup>61</sup> Weir E. and Smith J. «RDC: les activités améliorées de protection des civils ont besoin d'être soutenues», <http://www.refintl.org>, [accessed on 7 May 2010].

<sup>62</sup> Ibid.

## 2.5 CONCLUSION

This chapter notes that MONUC's mission in the field of peacekeeping operations showed its limitations and inefficiencies, due to the mandate given by the UNSC being in disequilibrium with the reality of the DRC conflict. An unforeseen consequence of the failure of UN intervention under the "Chapter VII" mandate as recommended by the Lusaka Ceasefire Agreement, MONUC was observing the massacre of civilian populations. The premise of this analysis is that strict adherence to the principle of the use of force in peacekeeping operations to protect civilians was the only option available to peace enforcement. In support of this premise, it was shown that the nature of the MONUC's mandate, which necessitated the adoption of coercive enforcement measures, inevitably led to its role to ensure the protection of civilian populations under imminent threat of physical violence. Murphy (2007: 14) argued that the adoption of UNSC Resolutions under Chapter VII of the UN Charter by the UN involving enforcement measures has been one of its most controversial actions in recent years. However, Murphy demonstrated that the problem was not the legality of such activity, but the question of which States decide when it was appropriate and what criteria was used to form that decision. Likewise, UNSC Resolution (S/RES/1906, para. 4, 5, 7 and 8) recognised the interrelated nature of the effective protection of civilians, reduction and removal of the threat of armed groups and the strategic objective of peace and stability in the DRC. This was one of the key drives of MONUC's objectives according to the Lusaka Ceasefire Agreement.

The weaknesses inherent to UNSC were due to the political impact of policy decisions surrounding the UNSC and the influences of donor countries and the five permanent members of the UNSC on peacekeeping missions. Murphy stated that the current practice allowed the permanent members of the UNSC to determine the agenda, thus facilitating a very selective, secretive and undemocratic response to international crises (ibid). After 11 years of the UN mission in the DRC, MONUC's mandate remains questioned with regard to what was published in *An Agenda of Peace* by then UNSG Boutros Boutros-Ghali. This was an important report that stimulated a major

international debate about the role of the UN in securing and maintaining peace and security in the world. Subsequent events have highlighted the deficiency in the UN system, in particular the controversy over UN action and policy in Somalia and Rwanda, and the failure to secure peace and protect Bosnia in former Yugoslavia. In the DRC, the case of the Ituri crisis showed that, most UN troops were not equipped, trained, or organised effectively enough to intervene to protect civilians. MONUC contingents were deployed with different understandings of their role. Some believed that they were only to protect the UN mission and the civilians in their immediate area. Others believed that they would only conduct Chapter VI operations. Autesserre (2006: 88-90) suggested that the way in which MONUC used its limited resources was also inadequate and inappropriate, and was bound to fail because it did not engage in the DRC conflict at its grassroots level. Instead, the UN and diplomats decided to only bolster a weak central government and an army of limited capability and discipline, which engaged in local conflicts almost as often as it prevented them. It was important to recognise the concepts and theories that inform the way in which the UN peacekeeping operations and their relationship with world politics in general can be understood.

Although MONUC's mandate has become more robust throughout the years and the protection of civilians has become the mission's top priority, its mandate remains ambiguous when it comes to civilian protection. The mandate language continues to be vague, as it is not clear what it entails, for instance, to protect civilians under imminent threat of physical violence, or what it means to undertake preventive action to deter possible spoilers. Although civilian protection was created to provide guidelines for MONUC peacekeepers in Kivu provinces, they remain largely in the dark when it comes to civilian protection and rely on their own intuition in the field. Moreover, according to HRW (2009: 152) "there is no formal training on the guidelines, no mechanism for monitoring and evaluation on whether and how these guidelines are followed, and nothing in the Agreement of MONUC status, rules of engagement, or force directives instructing UN troops to follow these guidelines in the field of peacekeeping operations in the DRC".

Furthermore, there seems to be a contradiction between theories (mandate language) and practices (actions in the field). While MONUC's mandate (UNSC Resolution (S/SER/1906)) stated that MONUC could undertake preventive action to deter possible spoilers, peacekeepers only acted proactively between 2005 and 2007. Autesserre (2006: 90) agreed that the elections and Ituri were important examples of what can be done when the international community decided that it would not accept failure.

Thus, the reality of the politicisation of the UN mandate to MONUC greatly affected the reality in the field, especially in terms of the protection of civilians who were under imminent physical threat. It was no wonder, therefore, that MONUC's primary mode of operation has always been triage. However, from a humanitarian perspective MONUC did a remarkable job in the field of peacekeeping operations in the DRC. Any criticism of peacekeeping in the DRC needs to begin with the undeniable fact that the UNSC has never given MONUC the resources it needed to reconstruct the DRC's security. This affected the implications of MONUC for peace and security, and its mandate to protect civilian populations under imminent threat will be analysed in the next chapter.

## **CHAPTER THREE**

### **PEACE AND SECURITY IN THE DEMOCRATIC REPUBLIC OF CONGO: IMPLICATIONS OF MONUC**

#### **3.1 INTRODUCTION**

This chapter presents a critical analysis of the implications of MONUC with regards to peace and security issues in the DRC as guided by its mandate. It begins by outlining the qualification of the DRC conflict. To qualify the DRC conflict is to determine the nature and actors involved in this conflict and to provide an answer to the principal question in relation to this topic. This will be followed by a discussion and an analysis of the implications of MONUC's mandate for peace and security issues in the DRC. In addition, critique on the context of how MONUC carried out its mandate to protect civilian populations and the role played by MONUC in the electoral process will also be discussed. The chapter concludes by focusing on the critical outcomes, strengths and weaknesses of MONUC's provision of peace and security, in its efforts to resolve the conflict in the DRC. To achieve international peace, peacekeeping is one of the conflict resolution procedures which allowed the UN's involvement to be represented in the field by deploying personnel and the military with the consent of belligerent parties with the objective to separate them so as to prevent and remove threats to peace.

Peacekeeping operations are primarily aimed at reducing international conflicts and the number of deaths resulting from wars or conflicts throughout the world. They are linked to conditions that are more or less favourable to a de-escalation of violence in domestic or international conflict. Lejbowicz (2006: 77) explains that the goal of these UN missions was to create favourable conditions for this de-escalation, without waiting for the parties involved to create these conditions for themselves. Dominique (2005: 37) noted that the intervention of UN troops was not foreseen by the UN Charter, but had emerged from 1956 as a main method of action by the UN. The UN Charter gave the UNSC primary responsibility for the maintenance of peace and security in the world (UN Charter, Art. 24, para. 1).



The institutional liberalism theory recognises international institutions such as MONUC as important organisations that contribute towards the peace and security process by promoting norms and values, as well as making cooperation easier by seeking harmony between and within member States in international politics. In addition, by playing its role, the UN contributes naturally and voluntarily, enabling States to achieve harmony with each other, as well as promoting common interests and mutual goals. According to the theory, through various actors, UN commitment to dispute resolutions reduces the States fear of each other. Nevertheless, Keohane, (1989: 383-384) argues that it was the mark of a practice that the behaviour of those engaged in it can be corrected by an appeal to its own rules. The rules must be durable and must prescribe behavioural roles for actors, besides constraining activity and shaping expectations. In other words, institutions differentiate between actors according to the roles that they were expected to perform, and hence institutions can be identified by asking whether or not patterns of behaviour are indeed differentiated by role.

Institutional liberalism assumes that international institutions can be and were prominent in terms of coordinating cooperation for common interests among States. Therefore, it is necessary for States to follow an institutional liberalism approach in order to gain more frequent cooperation to avoid conflict. The case study is the culmination of the institutional liberalism theory, which considers the implications of the UN for both interstate conflict and aggression in the DRC. A key element of these analyses that relates to the impact of the UN on dispute behaviour is the implication of the mandate, member cohesion and the institutional structure of the peacekeeping operation for MONUC's involvement in the peace and security problematique of the DRC.

It is important to note that the theoretical approach outlined above, contributes to the present study by underpinning tools for a critical analysis of how MONUC's mandate could have resulted in a successful peacekeeping operation for facilitating conflict resolution within the DRC. Above all, international institutions such as the UN, through MONUC's mandate, play a vital peacekeeping role in determining the nature of the DRC conflict, either as interstate conflicts or an act of aggression, and to determine the

nature of actors participating in this conflict. The term ‘intrastate conflict’ or ‘aggression’ in this study refers to armed conflict that took place in the DRC and the numerous threats against the civilian population, or those who were under imminent threat of physical violence (UNSC Resolution (S/RES/1565) of 1 October 2004).

### **3.2 OUTLINE OF THE QUALIFICATIONS OF THE DRC CONFLICT**

Although international humanitarian law<sup>63</sup> is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict (UNHR, 2011: 5), it does not include a complete definition within its material scope. It is true that the relevant conventions refer to various types of armed conflict and allow one, therefore, to foresee the legal contours of this multifaceted concept. However, these instruments do not provide sufficient precise criteria for determining the content of each of these categories without the risk of ambiguity. This sub section will focus on the characterisation of the DRC conflict, which is based on the nature of this conflict and the identification of the actors involved.

#### **3.2.1 Nature of the DRC conflict**

The Geneva Convention of 1949, under its common Article 2.1, stipulates: “cases of declared war or other armed conflict arise between two or more High Contracting Parties”, even if the State of war was not recognised by one of them.<sup>64</sup> The situations described here were applicable to situations only between States’ actors. The “High Contracting Parties” mentioned in this text were indeed sovereign entities. Depending on the circumstances, these situations may take the form of a direct confrontation between States, which constitutes an intervention in an internal conflict that already exists. In the second case, there was the internationalisation of the conflict. This occurs when a foreign power sends uninvited troops on the ground to support an opposition movement against a local government. Intervention may also take place by proxy,

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<sup>63</sup> International legal protection of human rights in armed conflict is protecting persons who are not or are no longer participating in the hostilities, and restricts the means and methods of warfare.

<sup>64</sup> The same scope has also been selected for other instruments of international humanitarian law, including the Additional Protocol I (Article 1 (3)).

whereby this power supports and guides the rebellion from the outside.<sup>65</sup> In this case, it is then necessary to determine what level of control is sufficiently needed in order to describe the conflict as international. Therefore, there has to be greater involvement than mere support, but this involvement does not imply that all actions of the group concerned are State-run and performed by external stakeholders. The attack must be characterised by an intention to harm the enemy, which excludes cases where the use of force is the result of an error. Similarly, where there is no armed conflict without involvement this does not imply that all actions of the groups concerned are performed by external stakeholders.

With regard to the nature of the conflict in the DRC, according to UNSC Resolution (S/RES/1234, para. 1 and 2) of 9 April 1999, forces mentioned by the UNSC that were opposed to the DRC government were deemed to have violated the national sovereignty and territorial integrity of the DRC. However, these forces mentioned were not clearly identified as Congolese or foreign forces? The UNSC remained silent on this point and never distinguished those forces in question. How can one determine whether or not the “rebel movements” were or may be related to this UNSC Resolution, in which they were described as “forces opposed”<sup>66</sup> to the DRC government? This lack of clarity was problematic, both because it made it harder to understand such violence, but also because it reinforces stereotypes of the UN as primitive and anarchic, driven by political influences within the UNSC and unable to clearly determine the nature of the conflict in the DRC. This study applies the institutional liberalism theory to better understand the nature of the DRC conflict which appeared as an interstate or an aggression with more than seven countries clashing in the country, resulting in a lot of deaths. The study focuses on ways to avoid interstate conflict by regulating State behaviour. The precise distribution and nature of the “stakes” explains differences in State policy and behaviour. Therefore, the UNSC Resolution (S/RES/1304, para. 4 (a)) of 16 June 2000 further demanded that Uganda and Rwanda, who had violated the sovereignty and

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<sup>65</sup> International Criminal Tribunal for the Former Yugoslavia (ICTY), Case Tadic, Judgement of 15 July 1999, para. 84: “It is indisputable that an armed conflict is international if it takes place between two or more States”.

<sup>66</sup> The Lusaka Ceasefire Agreement goes further by emphasising, in its preamble the determination of the parties to “immediately cease all aid to the negative forces determined to destabilise neighbouring countries, immediately cease all cooperation with these forces or to give them sanctuary”.

territorial integrity of the DRC, withdraw all their forces from the DRC territory without further delay, in conformity with the timetable of the Lusaka Ceasefire Agreement and the 8 April 2000 Kampala Disengagement Plan. Keohane & Martin (1995: 40-45) have accepted the fact that institutions will not be significant if a conflict of interest exists between two States at the international level since such a conflict cannot possibly be resolved by institutions alone due to the pursuit of interests by each state.

The prohibition against the use of armed force in International Politics is categorical, except with regard to self-defence (Article 51 of the UN Charter) and a coercive military action decided by the UNSC under Chapter VII of the Charter. Aggression is a violation of this prohibition (Reuter, 1992: 263) and presents the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or any other manner inconsistent with the UN Charter. According to UNGA Resolution (S/1974/3314) of 14 December 1974, aggression was displayed in the invasion of the DRC's territory by the armed forces of Rwanda and Uganda. Section 3 of this UNGA Resolution gives an exhaustive list of acts of aggression as a crime against international peace. These two countries (Rwanda and Uganda) justified their acts in terms of wanting action as an act of "preventive self-defence", and the International Court of Justice had repeatedly ruled on this case<sup>67</sup> under international law (Dupuy, 2004: 594). Unfortunately, the concept of self-defence in international law has been a matter of wide controversy ever since the adoption of the UN Charter. There has been deep disagreement about its content and circumstances in which the right of self-defence may be invoked and exercised. Indeed, the right of individual and collective self-defence still represents one of the most disputed matters in international law. Dupuy explains that the concept of "preventive war" was conceived and implemented by the USA, particularly against Iraq in the name of the fight against international terrorism and other threats after 11 September 2001. The concept of anticipatory self-defence requires that a State has the right to take armed action outside its borders in order to prevent a planned attack against its sovereignty and territorial integrity. This notion is closer to the

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<sup>67</sup> The relationship between self-defence in the UN Charter and customary international law was dealt with by the ICJ in the case of Nicaragua which is discussed in detail below. The ICJ rejected the endeavour to deprive the customary law of self-defence of its separate applicability.

idea of preventive war, in that it goes against common sense and the law of war to wait to be attacked before fighting back or asking for help from the UN. This is important, when the impending attack is going to occur by means of weapons of mass destruction or a terrorist organisation which gives clear signs of wanting to use them against a State (Ntirumenyer, 2004: 5).

Anticipatory self-defence was mentioned by Uganda, before the International Court of Justice (ICJ), as a means of defence with regard to armed activities in the DRC's territory (ICJ, 2005: para. 24). The Uganda government argued that it was acting in self-defence against the rebel forces launching attacks against it from within the neighbouring territory of the DRC (*Ibid*, para.146). Uganda had not reported these escalating attacks to the UNSC, nor had it ever claimed to have been subjected to an attack by the armed forces of the DRC (*Ibid*, para. 145). The ICJ noted that there was no proof that the DRC was involved in any armed attacks that had been launched against Uganda from the DRC's territory. The ICJ rejected allegations that Uganda had been subject to intermittent attacks by DRC-based rebel forces which were supplied and equipped by the DRC (*Ibid*, para. 120). Thus, the ICJ found that 'the legal and factual circumstances for the exercise of a right of self-defence by Uganda against the DRC were not present' (*Ibid*, para. 147), and since 'the preconditions for the exercise of self-defence' were also absent, the Court saw no need to consider 'whether and under what conditions contemporary international law provides for a right of self-defence against large-scale attacks by irregular forces' (*ibid*, para. 147).

Having found that Uganda had no grounds for self-defence (ICJ, 2005: para. 149), the ICJ (ICJ, 2005: para. 165) concluded that Uganda had violated the sovereignty and territorial integrity of the DRC, and that its unlawful military intervention was 'of such a magnitude and duration' that the ICJ considered it to be 'a grave violation of the prohibition on the use of force' in art 2(4) of the UN Charter. However, the ICJ (ICJ, 2005: para. 23 and 24) avoided making a finding of aggression, which the DRC had specifically asked the ICJ to do against Uganda. It was not until three months after the outbreak of hostilities that Rwanda acknowledged the presence of its armed forces in

the DRC territory. According to Curtis (2005: 4), the considerable size of the reconstituted Hutu force, while a cause for concern, was only one factor in Rwanda's overall strategic plan which resulted in the decision to intervene in the DRC. Curtis emphasised that according to former Rwandan Vice President and Defence Minister Paul Kagame, it was not just the size, but rather the proven ability of the ex-FAR/Interahamwe to launch attacks into Rwanda that was so alarming. This presence in the DRC did not begin in November 1998. The logical sequence of certain political events can attest to the almost undeniable and irrefutable fact that this presence dated back to 2 August 1998, long before the creation of the RCD as a politico-military party.<sup>68</sup>

However, Ludo (2001: 28-49) noted that the Rwandan government also claimed a significant portion of eastern DRC, which was considered to be "historically Rwanda", as well as the fact that former President L.D. Kabila was planning to commit genocide against the Tutsi Rwandan in the Kivu region. Ludo argues that the official reason cited by Rwanda for this new rebellion in the DRC was given by Theogene Rudasingwa, the Rwandan ambassador to the United States, who stated that: "The DRC continues to be a sanctuary for those who have committed genocide." President L.D. Kabila provided a new drive and gave genocide Rwandan weapons in an attempt to destabilise Rwanda. The rude and bigoted statements made, against Tutsi Rwandan, deliberate lynching of Rwandan origin and the reactionary rhetoric of empire 'Tutsi' were all elements of the genocide regime in Rwanda, and especially its spokesman on the "radio Mille Collins" (Ibid, 58).

The facts described above constitute a violation of the prohibition against the use of armed force in international relations under Articles 2 and 4 of the UN Charter, which was itself the result of a violation of the obligation towards the peaceful settlement of disputes in terms of Articles 2 and 3 of the same Charter. The timing of the beginning of the aggression by Rwanda and Uganda against the DRC (Autesserre, 2010: 176)

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<sup>68</sup> During the first six months of fighting, Uganda repeatedly voiced its displeasure toward Rwanda's "unilateral" creation of the RCD. The political face of the rebellion did not emerge until three weeks after the initial uprising when, at the behest of Rwanda, the RCD was founded by an eclectic mix of Congolese politicians opposed to L.D. Kabila.

showed, moreover, that it was not only an international armed conflict, but also had local, national and regional dimensions of violence that remained closely linked in most of the eastern DRC.

### **3.2.2 Identification of actors involved in the conflict**

If the UNSC could mask the nature of the conflict in the DRC as an act of aggression, it could not silence the identification of actors involved in this conflict. The actors who were involved in the DRC conflict, without naming those actors by the UNSC, the UNSC Resolution (S/RES/1234) stated that it “deplores” the fact that the fighting continues and the forces of foreign States in the DRC remain in conditions which are incompatible with the principles of the UN Charter. This UNSC Resolution asked the countries who violated the sovereignty of the DRC “to end the presence of these uninvited forces and take immediate action to that effect” (para. 1). However, Kabungulu (2000: 6) indicated that although it identified the force of foreign States, the UNSC Resolution did not say what it meant by ‘uninvited forces’. The UN called upon all parties to the conflict in the DRC to protect human rights and respect international humanitarian law. It particularly quoted the provisions of the Geneva Conventions of 1949 and the Additional Protocols of 1977, as well as the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, which all applied to them (UNSC Resolution (S/RES/1234, para. 6)).

The UNSC is the main UN body tasked with peacekeeping and international security, yet the concepts of aggression and aggressor were not clearly mentioned in its various UNSC Resolutions. In UNSC Resolution (S/RES/1234, para. 2), the UNSC deplored the continuing fighting and presence of forces of foreign States in the DRC in a manner which was inconsistent with the principles of the UN Charter, and called upon those States to take immediate steps to bring the presence of these uninvited forces to an end. Another UNSC Resolution stated that Rwanda and Uganda “... have violated the sovereignty and territorial integrity of the DRC...” (UNSC Resolution (S/RES/1304, para. 4) of 16 June 2001). The institutional liberalism theory posited that, the rules must be durable, and must prescribe behavioural roles for actors, besides only constraining

activity and shaping expectations (Keohane, 1988: 384). Despite repeated accusations made by the DRC against Rwanda, Uganda and Burundi, the UNSC did not mention a single country as being among the aggressors, nor did it mention the fact that those three countries itself had acknowledged the reasons<sup>69</sup> of their involvement as actors in the armed conflict in the DRC. According to the theory, institutions differentiate among actors according to the roles that they are expected to perform, and institutions can be identified by asking whether patterns of behaviour are indeed differentiated by role. Besides the power relations that govern the rules within the UNSC, the concept of “internal conflict with the participation of foreign forces”, was applied to the DRC armed conflict by the UN Special Reporter Roberto Garretson on the Human Rights Situation in the DRC. Garretson fundamentally influenced the central organ of the UN until the formulation of the abovementioned UNSC Resolution. Nevertheless, according to him, it remains clear that the DRC government, as well as all the Congolese people, viewed the conflict as an act of aggression.

The UN implicitly characterised the situation in the DRC as a conflict among the Congolese that was to say, as in the case of the Congo in 1960, “a civil war or internal collapse” that was complicated by outside interference (Gendebien, 1967: 279). In fact, for the DRC government, this crisis was far from being an institutional crisis or constitutional conflict of the era which was characterised by extreme fragmentation of power, trends and political opposition factions. Yet, according to the UN, they were dealing with a civil war, or even better, an internal struggle for political power. However, the provisions of Article 2, paragraph 7 of the UN Charter are clear:

Nothing in the present UN Charter shall authorise the UN to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement proceedings under this UN Charter, but this principle does not in any way affect the application of enforcement measures under Chapter VII.

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<sup>69</sup> The presence of Rwanda in the DRC conflict was justified by the permanent menace of the FDLR’s presence in the eastern part of the DRC since 1994. Uganda’s reason was for self-defence against the intermittent attacks by DRC-based rebel forces which were supplied and equipped by the DRC. And the involvement of Burundi was very limited, especially in some police operations aimed at securing its border with the DRC.



The legal uncertainty of these first two UNSC Resolutions (S/RES/1234) of 9 April 1999, and (S/RES/1258) of 6 August 1999 was to become the source of much controversy between the UN and the DRC government and led to differences of interpretation. Undefined roles of actors involved often caused the confusion in an analysis of the situation. When the armies of Rwanda and Uganda clashed in Kisangani, for the first time, the UNSC named the actors of the DRC conflict. Its UNSC Resolution (S/RES/1304, para. 2) of 16 June 2000 reiterated its unreserved condemnation of the fighting between Ugandan and Rwandan forces in Kisangani in violation of the sovereignty and territorial integrity of the DRC, and demanded that these forces and those allied to them desist from further fighting. However, those principles mentioned above by Keohane (1989) created doubts that the behaviour of the actors within the UNSC could shape expectations of sustainable peace in the DRC.

The disappointments have also been immense from the actors within the UNSC in some cases such as the failure to respond effectively to large-scale atrocity crimes in Rwanda in 1994, the Balkans and Sudan in 1991; the by passing out of the UNSC in the 2003 invasion of Iraq; the complete politicisation and loss of credibility of the Human Rights Commission. Autesserre (2010: 89) argued that reducing the local tensions, therefore, would also reduce the major instances of fighting that resulted in the massive displacement, death and sexual violence that were the hallmarks of the DRC's crisis.

It can be noted, however, that the qualification of the conflict was taken minimally. In other words the causative agent was soon determined by the spirit and letter of all subsequent actions in the peaceful settlement of the dispute. For example, there was a confusing and paradoxical, conceptual error which regularly condemned the DRC authorities with references to "rebels"<sup>70</sup> by the media and international public opinion, thereby reinforcing the belief of the aggressors that the crisis was internal.

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<sup>70</sup> For the DRC's authorities, the RDC and MLC were the rebel movements created by the aggressors Rwanda and Uganda for hiding their presence in the DRC.

### 3.3 IMPLICATIONS OF MONUC FOR PEACE AND SECURITY ISSUES IN THE DRC

An analysis of the implementation of the MONUC mandate and its involvement in the peace and security process in the DRC shows a mixed record of actions. The nature of MONUC's observation mandate in relation to the nature of the DRC conflict was one of inadequacy, and several factors played a role in this regard. On the one hand, some difficulties were predictable because of, the geographical size of the DRC, the existence of several armed groups,<sup>71</sup> and the involvement of several foreign countries<sup>72</sup> in the war. On the other hand, the volatile environment in which MONUC operated required constant adaptation, especially with regard to its observation mandate.<sup>73</sup> The DRC armed conflict was characterised by a plurality of actors, not only those who signed the cease-fire agreement in Lusaka, but also many other armed groups that continued to emerge. Hence, the choice had to be made between negotiating with rebel groups and the aggressor countries; and UN intervention for peace enforcement. Between these two positions, UN intervention was preceded by the signing of a peace agreement (Global and All Inclusive Agreement of 2002) between the warring parties, which contradicted Chapter VII of the UN Charter and the mandate that was given to the UN by the Lusaka Ceasefire Agreement. Therefore, the UN mandate of peace enforcement to protect the civilian population under Chapter VII of the UN Charter was inadequate to this peace agreement. The inappropriate interpretation of the nature of the DRC conflict by the UNSC as internal conflict with the participation of foreign forces has influenced the MONUC mandate for peace enforcement. Moreover, during the first eight years (1999-2006) of its establishment MONUC's mandate seems to have chosen first generation peacekeeping in the context of aggression.

Nevertheless, the political influence determined the decisions of the UNSC after the tremendous impact of unilateral actions taken by the US and its allies in Iraq in 2003 (Hassler, 2013: 1). Hassler criticised the fact that the UNSC appeared to be powerless to prevent its members from taking unilateral action in this instance, just as it had when

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<sup>71</sup> MLC, RCD, RCD/ML, CNDP, FDLR, LRA, Mai-mai, ADEF, etc.

<sup>72</sup> Rwanda, Uganda and Burundi against the DRC and its allies (Angola, Namibia and Zimbabwe)

<sup>73</sup> Interview with Mr Mamadou Kuyate, MONUC Head Office, Pretoria/RSA, Friday, 1 October 2010.

it failed to intervene effectively in the DRC. Tull (2009: 19) also criticised the political influence mentioned above since decisions of the UNSC about on-going peacekeeping missions took into account the extent to which mandates were being implemented. The increased activities of the UNSC through MONUC's observation mandate highlighted its inadequacies when seven official and more than 10 armed groups were clashing in the DRC.

It was four years after the creation of MONUC that the signing of the Global and All Inclusive Agreement of 17 December 2002 took place (Reyntjens, 2009: 250-261). This time lapse may explain the delays and political difficulties that were experienced by the UNSC, in identifying the real problems of the DRC conflict before the establishment of MONUC. Furthermore, the slow evolution of the MONUC intervention and the inadequacy of operational capacity in relation to the DRC territory hampered progress in the field of peacekeeping. Autesserre (2010: 19) emphasises that the UN had a major organisational interest in fully pacifying the DRC. If it wanted to preserve its credibility in peacekeeping issues, it could not afford to let the DRC collapse on its watch, and have its largest and most expensive mission be regarded as a fiasco. In this regard, on the one hand, the increase in the number of UNSC Resolutions demonstrated its interest in the situation in the DRC, but on the other hand, one may wonder whether this did not destabilise MONUC officials, who had to constantly adapt to the injunctions of the UNSC in response to realities in the field.

Moreover, a passive approach by MONUC characterised the first four years of MONUC, and this delayed the achievement of peace and security in the DRC and seriously threatened Chapter VII of the UN Charter. Thus, the absence of action by peacekeeping operations against threats incurred by civilians contributed to the discrediting of MONUC. There was a need, in this regard, for clear extensive communication as well as integration mechanisms. It was important to communicate the MONUC mandate known to ensure that it was understood by local Congolese populations and on regional levels. MONUC faced harsh criticism about its effectiveness and sustainability from the

Congolese population and Great Lakes region's authorities.<sup>74</sup> Three events illustrate the inability of the UN mission: the battle of Kisangani between Rwandan and Ugandan soldiers in 2000, fighting between armed militias in Bunia in spring 2003, and the capture of Bukavu in June 2004 by the troops of General Nkunda and Colonel Mutebuse, as well as the wars in North Kivu in 2008 and 2010.<sup>75</sup>

However, the adoption of a more robust approach and increased operational capabilities of MONUC since October 2004 has produced positive results (UNS Resolution (S/RES/1565)). On the one hand, there was the disarmament of 12000 militiamen in Ituri, and on the other hand, the announcement on March 31, 2005 by the ex-FAR and Rwandan Interahamwe of a unilateral cease-fire, as well as their willingness to cooperate with MONUC for their disarmament and repatriation to Rwanda (UNSC Resolution (S/RES/1592)). In other words, after being criticised, a proactive approach by MONUC had contributed significantly to the restoration of peace and security in the DRC. MONUC's diplomatic influence on the inter-Congolese dialogue and the humanitarian actions was successful. Unfortunately, a scandal of sexual abuse committed by some members of MONUC in 2004<sup>76</sup> and a repetition of the war in North Kivu again discredited MONUC.

The role of MONUC in peace and security issues have produced mixed results. The contextual constraints in the DRC conflict hindered the adequate treatment of problems which were at the root of the war (Autesserre, 2010: 15). Peace and security were not evident in this country, despite the presence of MONUC's mandate under Chapter VII of the UN Charter. Accordingly, in late 1999 the UN began, very slowly, to deploy a small observer force in the DRC, which was tasked with ratifying the Lusaka ceasefire agreement. It took several years for the UN to complete MONUC's deployment, and the mission continued to expand both in size and mandate. These constraints could include the presence of high levels of hostility and the low capacity of the MONUC mandate for

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<sup>74</sup> <http://www.globalpolicy.org/security-council/index-of-countries-on-the-security-council-agenda/democratic-republic-of-congo.html>, [accessed on 17 September 2013].

<sup>75</sup> <http://www.irinnews.org/report/40667/drc-rival-militias-to-meet-in-kisangani>, [accessed on 12 November 2010].

<sup>76</sup> <http://www.irinnews.org/report/53484/drc-un-official-dismissed-over-sex-abuse-scandal>, [accessed on 12 November 2010].

peace, a significant likelihood of spoilers, the existence of hostile neighbouring States or networks, the lack of a clear peace agreement before the MONUC intervention and ambiguous or confused mandates. Therefore, it is necessary to analyse MONUC's involvement in the achievement of peace and security in the DRC under the following points:

### **3.3.1 Restoration of peace**

The presence of an impartial representative of the international community contributed just in theory to the primary purpose of the UN. For example, a ceasefire was precarious in the eastern part of the DRC but the UN presence reassured the parties involved in the Global and All Inclusive agreement of 2002. With regard to the UN observation mandate, the UNSC showed its ineffectiveness in ensuring peace and security throughout the DRC, and also its limited resources used were inadequate and inappropriate. The UN only showed its presence when civilians were under physical threat and the number of the dead among the civilian population mounted. Virally (1972: 486) wrote that the peacekeeping operations aimed to ensure the physical presence of the UN in areas disturbed by fighting. De Coming (2001: 17-21) emphasises that peacekeeping was a way to control the implementation of peace agreements or ceasefires for the prevention of violent conflict after gaining the permission of precarious and divided groups. However, Human Rights Watch (2002: 2) reported that there were in fact military observers and 1000 MONUC troops stationed in Kisangani at the time of the massacre. Unfortunately, they did not intervene to protect the civilian population due to the character observe mandate that was given to the MONUC by the UNSC. The peacebuilding process included targeted measures to reduce the risk of a resumption of conflict<sup>77</sup> and lay the foundation for sustainable development, including through the strengthening of national capacities for conflict management at all levels.

Therefore, In order to provide a clearer perspective on the design of the UN mission, the case of ONUC in 1964 was discussed by Druckman, et al., (1997: 151-165), who

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<sup>77</sup> <http://www.irinnews.org/country/cd/drc>, [accessed on 12 November 2010].

criticised the problematique of the mandate and its activities, the basis for which were provided by the UNSC Resolution. They argued that the UNSC Resolution expressed concern about the danger of “widespread civil war” and urged the UN to take immediate and appropriate measures including, if necessary, the use of force as a last resort, in order to prevent its occurrence. They concluded that, confusion of purpose within the UN was, however, evident in the fact that while the resolution spoke of the use of force to prevent civil war, its preamble declared that “the solutions of the problems of the Congo lies in the hands of the Congolese people themselves without any interference from outside”. MONUC’s mandate quickly evolved and diversified with the adoption of several Resolutions. In particular, there was the UNSC Resolution (S/RES/1291) of 24 February 2000, under Chapter VII of the UN Charter, in which the UNSC considered the situation in the DRC to be a threat against international peace and security in the Great Lakes region of Africa. As a result, MONUC was strengthened in its size and mandate, and the UNSC Resolution also authorised the expansion of MONUC’s military personnel and observers (Ibid, para. 4). MONUC was also authorised to use force beyond self-defence to defend the civilian population. The UNSC Resolution (S/RES/1355, para. 32) of 15 June 2001 authorised MONUC to provide assistance for the DDRRR programme in the DRC. MONUC’s activities in 2002 were intensified on the one hand with military observers who continued to monitor the ceasefire along frontiers especially in the Ituri district, while on the other hand the team was investigating violations of human rights perpetrated by various armed opposition groups such as the MLC and RCD-Goma. In September 2003, MONUC placed a contingent in Ituri with a task force to the district which encouraged the DRC government to deploy a contingent of 700 Congolese police in Bunia for the security of the territory.<sup>78</sup> MONUC troops were targeted in Ituri in 2004, by militia groups while rebel general Laurent Nkunda occupied Bukavu. In 2005, MONUC actions in the Ituri and Kivu provinces were targeted by militia groups that allowed the DRC government to arrest militia leaders among them Thomas

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<sup>78</sup> United Nations Peacekeeping in the service of peace, Operation Artemis: The lessons of the emergency multinational, Peacekeeping Best Practices Unit Military Division, [www.peacekeepingbestpractices.unlb.org/PBPS/Library/Artemis.pdf](http://www.peacekeepingbestpractices.unlb.org/PBPS/Library/Artemis.pdf), [accessed on 12 November 2010].

Lubanga Dyilo, who is the leader of the Union des Patriotes Congolais (UPC), and was accused for killing UN peacekeepers in Ituri.<sup>79</sup>

As a result of the UNSC Resolution (S/RES/1794, para. 1 and 2) of 21 December 2007, the UNSC decided to extend the mandate and capacity of MONUC, as set out in UNSC Resolution (S/RES/1756), until 31 December 2008. The UNSC also requested MONUC to attach the highest priority to address the crisis in the Kivus in all its dimensions, in particular through the protection of civilians and support for the implementation of the Nairobi Joint Communiqué. The fighting in North Kivu at the end of 2007 between FARDC and Laurent Nkunda's CNDP, and the war fought by the various armed groups, including the Mai-Mai and FDLR, led to the reinforcement of the MONUC presence in the region. This was in support of operations conducted by the FARDC in order to restore the authority of the State and achieve the realisation of the *brassage* process. Despite the Peace Conference which was held from 6 to 25 January 2008 in Goma, and which resulted in the signing of two Acts of Engagement for the two Kivu provinces by all parties involved, violations of the cease-fire occurred fairly quickly and significant progress in the DDR process could be seen. MONUC supported the FARDC and participated in joint operations with FARDC, and MONUC also attempted to address issues through the organisation of basic training and frequent evaluations. This process was to be performed by MONUC in collaboration with the FARDC forces in achieving DDRRR, especially for the ex-FAR and Interahamwe Rwandan, whose presence in eastern DRC since July 1994 was one of the sources of instability in the region (Sabahara, 2005:158).

### **3.3.2 Disarmament of national and foreign armed groups in the DRC**

Since its creation on 30 November 1999 by UNSC, the MONUC's mission had undergone significant changes, both in terms of its mandate and capabilities. However, 11 years after its establishment, peace and stability were not present in the DRC. The

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<sup>79</sup> United Nations Security Council, Twenty-second report of the Secretary General on the United Nations Organisation Mission in the Democratic Republic of the Congo, [www.un-casa.org/CASAUpload/ELibrary/759.pdf](http://www.un-casa.org/CASAUpload/ELibrary/759.pdf), [accessed on 12 November 2010].

persistence of violence in many parts of the country, especially in the East (North and South Kivu), as well as delays in the implementation of DDR and DDRRR, showed that many challenges had to be faced before it would be possible to provide the country with stable and legitimate institutions.

The disarmament of armed groups was not clearly defined in either MONUC's mandate or, the Lusaka Ceasefire Agreement. The UNSC Resolution (S/RES/1341, para. 7) of 22 February 2001 urged all the parties to the conflict, in close cooperation with MONUC, to prepare, by the 15 May 2001, for immediate implementation of prioritised plans for the DDRRR.<sup>80</sup> The involvement of MONUC's DDRRR in these operations was reinforced by the UNSC Resolution (S/RES/1445) of 4 December 2002, authorising the increase of its personnel to 8,700 soldiers, in order to enable it to carry out its activities in a hazardous environment.

After four years of MONUC activities, the UNSC was clearly defined in the DDR of the DRC armed groups, which was evident in the MONUC mandate from 2003. The UNSC Resolution (S/RES/1493, para. 17) of 28 July 2003 authorised MONUC to assist the Government of National Unity and Transition in disarming and demobilising those Congolese combatants who had voluntarily decided to enter the DDR process in cooperation with the UNDP and other UN agencies. This process, which was provided for in the Global and All Inclusive Agreement of Pretoria, sought their voluntary departure, with the assistance of MONUC. The implementation of the National Plan of Disarmament, Demobilisation and Reintegration (PNDDR) and the National Commission for Disarmament, Demobilisation and Reintegration (CONADER) received valuable resources assistance from MONUC, as well as the Structure for Military Integration (SMI).<sup>81</sup> The integration of the army occurred in several phases to the

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<sup>80</sup> DDRRR of all armed groups referred to in annex A, Chapter 9.1 of the Lusaka Ceasefire Agreement.

<sup>81</sup> Designed and supervised by the Superior Council for Defence and the Government, this process was implemented by the Military Integration Structure (SMI) established by Decree No. 04/014 of 26 January 2004 and made operational in May 2004 through Decree n ° 04/039 of 13 May 2004, which appointed its officers. In this context, the introduction of the reform was a year behind in its infancy and was reflected in the following activities. SMI collaborated with the Ministry of Defence and the National Commission for Disarmament, Demobilisation and Reintegration (CONADER). It also enjoyed support from MONUC and the CIAT.



cantonment point (for checking lists of names) and those armed groups or individuals who were about to be disarmed by MONUC.

The MONUC mandate was strengthened by the UNSC Resolution (S/RES/1355, para. 32) of 15 June 2001, which authorised MONUC to assist the DRC government in the DDRRR, especially with regard to Interahamwe. This mission of the DDRRR was clearly determined by other UNSC Resolutions, because the issue of armed groups constituted a real threat to the process. According to UNSC Resolution (S/RES/1493, para. 25 and 26) of 28 July 2003, MONUC was authorised to take the necessary steps in the areas of deployment of its armed units, and as it deemed within its capabilities, to use all necessary means to fulfil its mandate in the Ituri district, as well as in North and South Kivu. The UNSC Resolution (S/RES/1794, para. 5, 6 and 7) of 21 December 2007 encouraged MONUC, in accordance with its mandate, to give priority to the protection of civilians in decisions regarding the use of available capacity and resources. It also instructed MONUC to support the integrated FARDC brigades, with a view to disarming both the recalcitrant foreign forces and DRC armed groups. This particularly applied to the FDLR, ex-FAR/Interahamwe and dissident militia of Laurent Nkunda, in order to ensure their participation in the DDRRR processes where necessary. All these armed groups were located in the mountains and forests of North and South Kivu's provinces.

The central activities of MONUC were then focused on activities that included the DDRRR process and a contribution to the DDR programme. These activities also dealt with the establishment of a stable security environment which included the protection of civilians under immediate threat. This was one of the indicators that contributed to the failures of the DDRRR process because there were no agreed set of parameters that would be used to ascertain when and how civilians were considered to be under immediate threat. Such clauses rendered the process difficult to execute. This aspect was central when considering the disastrous humanitarian situation in the Kivus, which involved substantial movements of people and a situation of widespread insecurity, and also greatly complicated access to populations in need of humanitarian organisations.

Unfortunately, MONUC failed in its effort to disarm national and foreign armed groups in the DRC. The reasons for this were the failure of the UNSC to give a clear mandate to MONUC, because of the political influences of donors and their refusal to engage their troops in this process, and by contributing countries to DRC peacekeeping's lack of national harmonisation, including lack of coordination between MONUC and the DRC government for the DDRRR. The DRR was also getting poor results because of poor management of the implementation of the DDR programme and lack of financial resources.

### **3.4 ROLE OF MONUC'S MANDATE TO PROTECT CIVILIAN POPULATIONS**

The DRC provides a rich case study of the MONUC mission demonstrated by the interpretations of what the charge to “protect civilians” means for peacekeeping forces. The MONUC mandate has changed dramatically since 2004, developing from an observer mandate to a mandate with tasks to protect civilians under imminent threat of physical violence as priority (UNSC Resolution (S/RES/1565, para. 4, (b)). The concept of civilian protection in this study should be understood: as a task for UN peacekeepers; as support to humanitarian space; and as a central goal for UN military forces. MONUC further demonstrated issues of protecting civilians when peacekeepers operated with differing understandings of their mandate that shifted from Chapter VI to Chapter VI. Fundamentally, the DRC case illustrates the enormous difficulties of addressing a humanitarian crisis during on-going conflict, where MONUC forces were drawn into a grey area between peacekeeping and war fighting.

The Protection of Civilians (PC) was extremely important in contemporising peacekeeping operations: it was required by the mandates, but the credibility of peacekeeping missions and legitimacy in the eyes of the local and international community depended on it. Since 1999, the various UN peacekeeping operations<sup>82</sup>

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<sup>82</sup> This refers to the following missions: UN Mission in Sierra Leone (UNAMSIL), UN Mission in the DRC (MONUC), UN Mission in Liberia (UNMIL), UN Operation Côte d'Ivoire (UNOCI), UN Mission for Stabilisation in Haiti (MINUSTAH), UN Operation in Burundi (ONUB), UN Mission in Sudan (UNMIS) and AU Hybrid Operation-UN Darfur (UNAMID).

authorised by the UNSC have explicitly mentioned the UN's protection of civilians.<sup>83</sup> Whether or not protection has always been part of the work of peacekeeping personnel (military, police and civilian), recent events<sup>84</sup> have shown that the ability to respond at the right time, provide a comprehensive strategy and taking the necessary steps were sometimes lacking.

The UNSC in 2004 gave MONUC a robust mandate of peacekeeping based on Chapter VII of the UN Charter, which explicitly provided for the protection of civilians and UN personnel. Since then, the size and number of staff working within MONUC continued to increase, but the protection of civilians still remained a central problem with regard to its mandate. MONUC's experiences illustrate some elements of civilian protection and its requirements. The mission also demonstrates the beginning of an innovative strategy to integrate differing approaches within an operation, including coercive protection. However, despite MONUC's mandate to protect civilians, the DRC's population including women and children, still remained under imminent threat of physical violence.

### **3.4.1 Protection of civilian populations under imminent threat of physical violence**

Protection of human rights is central to the UN actions. Abuses and violations of human rights were at the heart of the most recent conflicts, and were experienced by many displaced persons and refugees as in the case of the DRC. Arguably, the most serious abuses of human rights have often occurred during the DRC's armed conflict. All UN entities are responsible for protecting and promoting human rights through their work related activities (UNDPKO, 2005: 47), and this is reiterated by the UNSC Resolution (S/RES/1856, para. 3, a) and f)) of 22 December 2008. The UNSC Resolution also "emphasises that the protection of civilians [...] must be given priority in decisions about the use of available capacity and resources, over any of the other tasks [...]". This means that the protection of civilians was explicitly established as an overriding priority

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<sup>83</sup> Some mandates, such as the following expressions, describe the protection of civilians charged with the mission "under imminent threat of physical violence", "within its limited resources", "in areas of deployment of its units", "without prejudice to the responsibility of the Government", etc.

<sup>84</sup> Different conflicts in the eastern part of the DRC, where MONUC was criticised for its lack of capacity to protect civilians in the areas of conflict by NGOs such as HRW, ICG, OXFAM, etc.

in MONUC's mandate. MONUC was facing one of the most complex emergencies in Eastern and North-eastern DRC.

Assembling and preparing well-equipped troops was only part of the challenge, as decisions about strategy were also important. For example, the crisis in Ituri resulted from a clear strategic disconnection between the UNSC and MONUC: the UNSC pressured the Ugandan forces to withdraw from Ituri before sufficient peacekeepers had arrived to replace them. This compromised the protection of the civilians in Ituri district as they were left vulnerable to attack by other militias operating in the vicinity. This position was shared by the UNSG which had warned for years that foreign troop withdrawal would result in instability. As early as 2001, the UNSG had argued that "the UN should examine what it can do to help prepare for the situation developed in the DRC following the withdrawal of foreign forces, responsible for the security of the civilian population under their control" (UNSG report, (S/2001/373, para. 118)). Likewise, the UNSG anticipated that the rising number of peacekeepers in the DRC could create public expectations for civilian protection (UNSG report, (S/2002/621, para. 71)). The UNSG expressed concern in September 2002 that more forces might result in calls for "all concerned to urgently address the deteriorating security situation (UNSG special report, (S/2002/1005, para. 61))." Thus, even as the UN leadership anticipated the challenges in Ituri and recognised that MONUC should be expected to protect civilians, the UNSC failed to support a positive strategy to meet these challenges. As a result in 2004 in Bukavu, and 2007 and 2009 in Goma, civilian populations were under imminent threat of physical violence. Key protection issues were related to widespread human rights violations in the course of attacks by foreign armed groups, notably the FDLR and the LRA, and remnants of Congolese armed groups, and due to acts of undisciplined soldiers of the FARDC.

The highest priority of the MONUC mission was the protection of civilian populations, which necessarily involved the neutralisation of significant local and foreign armed groups. Due to the extent of war crimes committed against the Congolese civilian population, protection of this population became the cornerstone of the MONUC

mandate.<sup>85</sup> Several warring belligerents' use of child soldiers was strongly condemned by the international community, which resulted in many pronouncements of the UNSC. The UNSC Resolution (S/RES/1612) of 26 July 2005 focused on the protection of the civilian population, in addition to the Optional Protocol to the Convention on the Rights of the Child of 25 May 2000 on the involvement of children in armed conflict. As the need to operationalise protection was relatively new, a cultural shift in the organisation was required to meet the new obligations. Inclusion of specific provisions for the protection of children in the mandates of UN peacekeeping operations, deployment of child-protection advisers on a case-by-case basis, and to ensure that the need for and the number and roles of child-protection advisers were systematically assessed during the preparation of each UN peacekeeping operation. Implementation methods were still very much in the developmental stage. Criteria for when to intervene to protect must take into account the need for peacekeepers to possess knowledge of the dangers faced by civilians in a given situation, and of the peacekeepers' capacity to make a difference in that situation.

The DRC case demonstrates the dilemmas faced by the UN in leading forces tasked to protect civilians, without having all the tools to do this. The experience of MONUC also highlights the impact of concepts of operation, capacity, mandates and training on peacekeeping operations aimed at protecting civilians. MONUC's experience further identifies standard questions for future military missions: the definitions of vicinity and capacity, the integration of actors, clarity on the use of force and the role of peacekeepers in providing broad security in lieu of a State's responsibility and the operational concept of protection. Given the continuing trend to direct military forces to protect civilians, these key areas deserve further consideration.

Nonetheless, this dilemma faced by the UN was highlighted by Marriage (2013:51-60) who demonstrates the salient features of the DRC armed conflict: massacres of defenceless civilian populations, plundering of public and private companies, poisoning,

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<sup>85</sup> The first accused before the ICC was UPC's president Thomas Lubanga, who was charged with using children under 15 years of age to participate actively in hostilities during armed conflict in the Ituri/DRC.

murders, torture, rape, persecution, collective punishment, summary and extrajudicial executions; incitement to ethnic hatred, and general and systematic attacks against civilian populations followed by massacres. The comprehensive assessment undertaken on the lack of knowledge and practices in peacekeeping activities has affected the MONUC mandate to 'protect' the civilian population. Marriage concluded that these acts were committed in the territory of the DRC during this period as crimes against humanity, war crimes and possibly genocide, as understood by the statutes of the International Criminal Tribunals for the former Yugoslavia and Rwanda. In any event, the various reports<sup>86</sup> by UN authorities were described, namely the Special Report of the UN Commission on Human Rights on the situation of human rights in the DRC.

Moreover, the atrocious and devastating war in the DRC caused enormous suffering of women, girls and children who were disproportionately affected. These categories of people were victims of widespread sexual violence. In addition, there was the illegal exploitation and forced enlistment of children in the army. Marriage (2013: 56) argued that the sexual violence reinforced power relations by force but also implicated its victims, who did not report rape, particularly in the reinforcement of power. The actions of MONUC were certainly significant, but the mandate to protect the civilian population was inadequate to stop the worsening of the tragic situation of the Congolese population in areas controlled by armed groups. The Kivus were most affected by the abuse of human rights, without anyone being able to make a reliable quantification.<sup>87</sup> In this regard, the action of MONUC should have resulted in a decrease in the number of civilian victims of conflict. In fact, during the first phase of its mandate, MONUC was simply unable to play a significant role in protecting civilians under imminent threat of physical violence.

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<sup>86</sup> Read CN. 4/2001/41, E/CN.4/2001/40/Add.1 and E /CN.4/200/42. These reports and many others, including UNSC Resolutions and decisions by relevant UN bodies on the situation of human rights and humanitarian law in the DRC, can be accessed online at: <http://www.unhchr.ch/html/menu2/7/a/mcon.htm>, [accessed on 22 October 2011].

<sup>87</sup> The armed conflict in the DRC was believed to have caused between 1998 and 2011, the deaths of about 6.8 million people, mostly civilians during the fighting and following the humanitarian catastrophe due to massive violations of human rights, which were most often characterised by physical violence.

The lack of leadership and clear strategy affected the UN forces that were sent to protect civilians. The innovative continuum approach to civilian protection in the DRC was the beginning of recognising how differing concepts of protection can work together effectively. However, this approach was not a substitute for a sustainable strategy for military forces and for preparing troops with their own concepts, training and leadership for these kinds of operations. The UNSC supported peacekeeping missions, and must have noticed that such missions were in urgent need of conceptual clarity and better tools to prepare and support those troops sent to enforce peace. MONUC's experience in the DRC showed that these issues were addressed by both the DRC and the UN for any future peacekeeping mission or intervention aimed at offering protection to the civilian population.

#### **3.4.2 Protection of women and girls against abuse by armed groups**

The sexual abuse of women and girls by armed groups became a common practice of the war in the DRC in 1998 where armed conflicts, impunity and poverty contributed to a context of widespread violence. Continuing insecurity provided by a multitude of armed groups active in this part of the country did not seem to be smoothening things over. Marriage (2013: 55) argued that women were kidnapped by armed men, detained and forced into sexual slavery, raped, forced to do domestic work and to submit to forced marriages with members of various factions, and sometimes to pay the ransom required by the militias. It has been noted that children who have grown up during the war had not received proper education and are ill-prepared for peaceful and productive activities. Survivors suffered in silence and could not speak openly about their ill-fated experiences due to the lack of protection. Perpetrators of rape were often known by the Congolese authorities and MONUC. However, neither the police nor the Congolese judicial authorities nor MONUC could make a firm decision in a rape case. Several alleged perpetrators of the massacres and killings are found today in the political institutions of the DRC through the mechanism of reconciliation from the political agreement that was signed at Sun City in 2002 (MONUC Magazine, 2010: 5-12).

The Constitution of the DRC particularly listed sexual crimes committed against girls/women as crimes against humanity.<sup>88</sup> It emphasised that the achievement of the protection of women and girls could be achieved mainly through their participation in decision-making in the affairs of the State. The Constitution also recognised their right to participate in the management of public affairs. It also required parity in terms of the constitutional principle that there should be 30% representation of women in parliament and government.<sup>89</sup> This higher order goal cannot be achieved without first safeguarding the physical wellbeing of girls and women. In order to integrate a gender perspective into its peacekeeping operations and ensure the implementation of peace agreements in the DRC, MONUC established, in March 2002, pursuant to the UNSC Resolution (S/RES/1325) of 31 October 2000, an office for gender-specific issues, called “Office Genre”. Its roles included, in particular, the assessment of women's involvement in decision making in the DRC, networking and information exchange, and participation of women in the peace process (MONUC Magazine, 2006: 7).

Regional instability in the Great Lakes Region also contributed to the problematique of MONUC's mandate in the DRC. The FDLR, present in the DRC since the Rwandan genocide of 1994, were the main abusers, while some of the FARDC were also perpetrators of sexual violence in the provinces of North and South Kivu.<sup>90</sup> The United Nations Population Fund (UNFPA) noted that humanitarian agencies had welcomed the efforts of the Congolese government to stop rape by its soldiers, but stressed that much more could have been done to put an end to impunity. In addition, the LRA, and Ugandan militia known for abducting children to serve as soldiers or sex slaves, continued its attacks against civilians in the Orientale Province in the north-east of the country. The Office for the Coordination of Humanitarian Affairs (OCHA) reported that

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<sup>88</sup> The Constitution of the DRC, dated February 18, 2006, in its Article 15, states that: “The public authorities shall ensure the elimination of sexual violence. Notwithstanding the international treaties and agreements, any sexual abuse of any person, with the intention of destabilise, dislocate families and to eliminate an entire people is criminalised against humanity punishable by law”.

<sup>89</sup> This position was in line with the UNSC Resolution (S/RES/1325) of 31 October 2000, in particular, which required Member States to ensure that women were better represented at all levels of decision-making, national, regional and international institutions for conflict prevention, management and resolution.

<sup>90</sup> [http://www.un.org/apps/newsFr/storyF.asp?NewsID=21176&Cr=femmes&Cr1=#.UPCDU\\_KIyFE](http://www.un.org/apps/newsFr/storyF.asp?NewsID=21176&Cr=femmes&Cr1=#.UPCDU_KIyFE), [accessed on 12 March 2010].



according to data released by the UBN in 2010, in 2009, the LRA killed 849 civilians and abducted 1,486 people, including 185 children.<sup>91</sup> Therefore it can be noted that given the above events, the protection of women and children was not achieved by MONUC.

### **3.4.3 Protection of children engaged in the DRC armed conflict**

Over the past 20 years, the recruitment of boys and girls into armed forces and groups, which is a violation of international human rights law, has been of grave concern in the DRC, notably in the eastern part of the country. Despite awareness-raising campaigns and attempts to pacify armed groups, recruitment of children remained endemic in the country, with high numbers of children recruited in the past two years as a result of renewed hostilities in the east of the country. Against this background and in the framework of UN support to the DRC Government to stop and prevent underage recruitment and use of children for military purposes, MONUC analysed patterns of child recruitment by armed groups in the areas most affected by the armed conflict. Recruiting children to take up a weapon and fight or in any way support adults, who have chosen to take up arms, is a crime. It is a violation of the rights of boys and girls to a healthy life, within the shelter of their families and communities. It is a violation of their rights to education, love, affection, adequate and appropriate care, freedom of movement and expression.

Children continued to be recruited and served in the DRC conflict, and were used as combatants or forced to work as sex slaves by armed groups. They were abused and raped over many months or years, and the girls were rarely released from captivity at the hands of armed forces and groups. An estimated 30,000 children were demobilised in the DRC in 2011.<sup>92</sup> Faced with this conflict, the DRC officially launched a DDR programme in July 2004, in order to help children return to civilian life. The UNSG has repeatedly defined the protection of children in situations of armed conflict as a matter

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<sup>91</sup> Ibid.

<sup>92</sup> This was the number of the DDR programme for children confirmed by the government of the DRC and the World Bank, <http://www.irinnews.org/fr/report/100311/analyse-une-aide-cibl%C3%A9e-est-n%C3%A9cessaire-pour-les-anciens-enfants-soldats-de-rcd>, [accessed on 12 March 2010].

of security and peace and international commitments to protect children in these situations in its UNSC Resolutions (S/RES/1261, S/RES/1314, S/RES/1379 and S/RES/1460). In addition to the UNSC, other organisations and UN agencies have taken measures to resolve the issues raised by the DRC conflict and, more specifically, the protection of children.

The UNSC (UNSC Resolution (S/RES/1612, para. 1) of 26 July 2005) strongly condemns the recruitment and use of child soldiers by parties to armed conflict in violation of international obligations applicable to them and all other violations and abuses committed against children in situations of armed conflict. The MONUC child protection mandate also included engagement in dialogue with perpetrators to end the recruitment and use of children associated with armed forces and groups and other child rights violations. The operational framework of this programme in theory meant that armed forces and groups who chose to adopt the process had to bring their members, including children, to centres where they were disarmed and sent for counselling and demobilisation. After being housed for a maximum of 48 hours, separated from adults, they were assigned to local or international NGOs mandated to welcome them to Centres in Transit and Orientation (CTO). This procedure had the advantage of allowing the authorities to filter and check the quality of fighters who came forward. Unfortunately, it was not implemented as required by the Operational Framework. Most of the time, children were detained for longer than 48 hours without being separated from adults, because of the inadequacy of reception facilities and the lack of staff to handle their requests quickly.

In Eastern DRC, where the recruitment and re-recruitment of children associated with armed forces and groups were rampant, only 20% of children supported by UNICEF<sup>93</sup> and its partners were girls. Since 2004, when the DDR programme commenced,<sup>94</sup> the actors in the protection of children had facilitated the release of more than 36,000 children associated with armed forces and groups. In 2009, a total of 5,930 children

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<sup>93</sup> [http://www.unicef.org/french/media/media\\_65154.html](http://www.unicef.org/french/media/media_65154.html), [accessed on 12 March 2010].

<sup>94</sup> <http://www.un.org/apps/newsFr/storyF.asp?NewsID=21215&Cr=Congo&Cr1>, [accessed on 12 March 2010].

were demobilised, including 1,222 girls. Nevertheless, the efforts of the DRC Government were commended with the adoption of the Law of 10 January 2009, which prohibits the use of children in armed forces and groups in DRC groups.<sup>95</sup> Most of these children were demobilised in the both Kivus, and were excluded from the process of the rapid integration of armed groups into the FARDC in early 2009. The Watchlist report (2003: 27) stated that release initiatives were hampered by the difficulties created by daily persistent conflict, widespread poverty, and the deterioration of the socio-economic base and the new waves of recruitment.

Thus, the MONUC had called on the army, all rebel groups and militias to demobilise all child soldiers in its ranks and hand over any minors held by military tribunals to civilian jurisdiction. However, up to the time this study was done, only the FARDC demobilised child soldiers after integrating all parties in 2003. One of the main obstacles to evaluating the success of DDR programmes for children was the lack of available data on the course of those who have been reintegrated into society. All the other militias and rebel groups namely CNDP, LRA, FDLR, FNL and UPDF continued to recruit children. Mobile teams were established throughout the country, with partners such as MONUC, Save the Children, Cooperazione Internazionale COOPI and other NGOs, pleading with leaders and commanders to release as many children as possible from armed forces and groups, with a greater emphasis on girls.

#### **3.4.4 Protection and promotion of human rights**

The issue of protection and promotion of human rights was not new in the DRC. Most of the Congolese traditions and customs are carriers of values related to human rights, including respect for human life, human dignity, and individual and collective fulfilment. All these values were violated by the dictatorship of President Mobutu and the wars that had taken over in this country. Massive violations of human rights and international humanitarian law during the war in the DRC pushed the UNSC to consider this issue and appoint MONUC to ensure the protection and promotion of human rights in the

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<sup>95</sup> <http://www.un.org/apps/newsFr/storyF.asp?NewsID=21215&Cr=Congo&Cr1>, [accessed on 12 March 2010].

DRC (UNSC Resolutions (S/RES/1756) of 15 May 2007; (S/RES/1794) of 21 December 2007; (S/RES/1856) of 22 December 2008). This mandate was particularly important because for a long time the situation of human rights had not improved in the DRC. This required the participation and cooperation of all levels of Congolese society to drive out all perpetrators of violations of human rights.

MONUC's Division of Human Rights provided consultative expertise on issues related to the protection and promotion of human rights, supported the process of ensuring that violations of human rights committed in the past did not go unpunished, and monitored the development of human rights in the DRC. This Division of MONUC recorded arbitrary executions, rapes, arrests and detentions, torture, cruelty, inhuman and degrading treatment, and looting committed by state agents and armed groups.<sup>96</sup>

Moreover, this Division was greatly appreciated by the Congolese population through its direct contact with the population and the results of its actions on the ground. Zeebroek (2008: 15) emphasised that this assessment was far from meeting unanimously because the Congolese population were still spared the atrocities of the rebels and from soldiers of the FARDC. Therefore it can be noted that it was also a disappointment to note that members of the MONUC were repeatedly found guilty of violations of human rights and non-compliance with their code of conduct particularly in sexual abuse matters.<sup>97</sup>

The violence was extreme, especially in the east of the country. Interventions by rebels and their foreign allies were terrorising the civilian population. The Mai-Mai's involvement was seen as a response to this suffering according to the report of the Special Report (E/CN.4/1999/31) on the situation of human rights in the DRC dated 8 February 1999 which had the support of the population. The health infrastructure was

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<sup>96</sup> MONUSCO Division of Human Rights, [www.monusco.unmissions.org/Default.aspx?tabid=4141](http://www.monusco.unmissions.org/Default.aspx?tabid=4141). [accessed on 25 October 2011].

<sup>97</sup> Investigations by the Office of Internal Oversight Services of the United Nations (OIOS-OIOS) reveal that as many as 296 cases of sexual abuse of minors have been opened for the period 2004-2006. And 140 confirmed cases were reported primarily among peacekeepers. Only 169 people were laid off or returned to their country, a few dozen have been sued by their national authorities. <http://www.un.org/press/en/2006/sc8649.doc.htm>, [accessed on 22 March 2012].

completely destroyed and the population had to revert to traditional medicine. The impression gained by the Special Reporter on his two visits to this area was the same: it was a reign of terror. The inhabitants of the occupied territory knew that the primary responsibility for the violence perpetrated against the civilian population was in the hands of the Interahamwe and Mai-Mai, followed by Rwandan soldiers.

As such, the positive outcome of MONUC regarding the promotion of human rights was the demobilisation of 5250 child soldiers, 2600 of which came from the ranks of the Congolese Armed Forces (FAC) and 2,650 of which came from the ranks of the rebel RCD-Goma. With regard to the evolution of the general situation of human rights in the country, MONUC failed to improve it. During the reporting period, the situation of human rights continued to deteriorate throughout the territory, with a worsening of the situation occurring in the East.

Thus, the most serious abuses of human rights were documented in several reports and resolutions since the beginning of the conflict in the DRC. The bitter truth was that the accelerated integration of armed groups into FARDC and the launching of Operation Kimia II against the FDLR coincided with a sharp increase in the number of violations of human rights by the FARDC. UNSC Resolution (S/RES/1906) of 23 December 2009 requested UNSG to conduct a strategic review of the situation in the DRC and MONUC's progress, and to achieve, the reconfiguration of the mandate of MONUC in close collaboration with the DRC government and the countries which had contributed troops and police. This UNSC Resolution recommended the elimination of the threat of foreign and Congolese armed groups, in particular the FDLR and the LRA, strengthening its efforts with regard to DDR and DDRRR and military operations, and helping the government to stabilise areas from where these armed groups were expelled. Thirdly, the UNSC Resolution sought to help the DRC government to make progress in reforming the security sector, including the reform of the FARDC, national police and, judicial and correctional systems.

### **3.5 MONUC'S ROLE IN THE ELECTORAL PROCESS**

The electoral assistance mandate given by the UNSC authorised levels of involvement ranging from executive authority to technical and logistical support. The domestic ownership of the electoral process and the mission's role in coordinating international assistance have been increasingly emphasised in peacekeeping mandates. The peacekeeping missions were primarily asked to provide technical expertise and logistical assistance. Recent mandates have also included specific references to thematic issues of particular concern to the Council (e.g. gender, human rights, or use of media) to ensure that they are made mission-wide priorities. MONUC was mandated by the UNSC to continuously implement multiple political, military, rule of law and capacity-building tasks, including trying to resolve on-going conflicts in a number of the DRC provinces.

The involvement of MONUC's mandate in the electoral process in the DRC was preceded by two UNSC Resolutions ((S/RES/1493) and (S/RES/1565)) whose aims were to ensure technical support and provision of assistance to the Independent Electoral Commission (IEC) and its officials in the provinces. MONUC was thus actively involved in civic education of the IEC, staff training, communication and programmes of information technology, education on voter registration, routing materials and electoral equipment in both major cities and rural areas.

Electoral assistance has become a core task of MONUC's peacekeeping missions and, as such, should be approached in a manner that reflects its importance. In addition to its mandate, the UNSC, in its UNSC Resolution (S/RES/1493, para. 5) of 28 July 2003, mandated MONUC "to provide assistance, during the transition period, for the reform of the security forces, the re-establishment of a State based on the rule of law and the preparation and holding of elections throughout the territory of the DRC," and welcomes, in this regard, the efforts of the Member States to support the transition and national reconciliation. To ensure effective coordination of the electoral process, several consultation frameworks were put in place by the technical assistance programme

coordinated by the Electoral Assistance Division of the MONUC. These included frameworks for government institutions, civil society, political parties, the international community, and national and international NGOs.<sup>98</sup>

The project integrated into the general framework by providing additional support, particularly in areas not covered by the prerogatives of the Electoral Division of MONUC. It was structured around a three-pronged strategy:

1. Develop the institutional capacity of the IEC of the DRC;
2. Mobilise and manage financial resources for the organisation of elections;
3. Coordinate the contributions of donors to the electoral process in the DRC; and Support MONUC Electoral Division in the harmonisation of technical assistance to the IRC, with the objective of creating a dynamic environment for the conduct of free, transparent and democratic elections in the DRC.

Between 2003 and 2009, the MONUC Electoral Division (ED) received several mandates from the UNSC Resolution (S/RES/1856, para. 4, d). This UNSC Resolution instructed MONUC to prioritise the protection of civilians in the context of the electoral crisis, especially in the Kivu provinces. The intervention of MONUC in the electoral process was much needed because of the vastness of the country and, the effects of armed conflict challenges faced by the institutions of the Republic. Many other reasons formed the basis for strengthening MONUC's action on the ground.

MONUC therefore, faced multiple challenges in assisting the DRC electoral process. It had limited infrastructure to accommodate 25 million registered voters, 12,000 polling centres and about 50,000 polling stations. There were also problems regarding communication; particularly that the different communication systems were incompatible. Another challenge was limited resources in many areas of services that included transportation and systems to disburse salaries of election workers and police officers in 12,000 communities. Insecurity in some parts of the country threatened to deter a number of voters from casting their vote on the Election Day in the eastern part

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<sup>98</sup> This included, among other things, the International Technical Committee established by MONUC and the Inter-Institutional Committee established by the IEC.

of the country. The late approval of MONUC's US\$ 144,730,750 budget<sup>99</sup> by the UNSC in 2006 affected MONUC's implementation of its mandate. Given all these challenges enumerated here, the implementation of MONUC's mandate was bound to be ineffective.

The distribution of election materials and the collection of results in the vast territory of the DRC, the massive destruction of its transport and communication infrastructure, and the inaccessibility of some areas of the country made this task very difficult to perform. These challenges were recognised and addressed by the logistical support provided by MONUC which enabled the reaching of the greatest possible number of Congolese citizens, resulting in greater participation in the national elections. MONUC's focus on the conduct of the presidential and legislative elections was to be effective from the 30<sup>th</sup> of July 2006 until the announcement of the first round before investing in operations of elections. In the second round of the presidential and provincial elections of 29<sup>th</sup> of November 2006, the DRC was to still benefit from the demonstrated commitment of MONUC for the elections.

MONUC's assistance with the electoral process, succeeded despite the difficult environment in which the elections were held. The security situation in Kivu remained hopeless. Certainly, the challenges were many and the contribution of MONUC remained significant. A response to these comments was provided by UNSC Resolution (S/RES/1925) of 28 May 2010, which underlined the commitment of MONUSCO to provide technical and logistical support for the organisation of national and local elections at the express request of the Congolese authorities and the limits of its capacity and resources.

As previously mentioned, this interpretation of the MONUC Resolution differed slightly from that issued by government authorities, which created conflict between the

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<sup>99</sup> Thamba R. 2011. Financement et régulation internationaux du processus électoral en RDC, [http://www.general.assembly.codesria.org/IMG/pdf/Roger\\_Thamba\\_Thamba-2.pdf](http://www.general.assembly.codesria.org/IMG/pdf/Roger_Thamba_Thamba-2.pdf), [accessed on 22 March 2012].



government and the UN, and eventually resulted in the establishment of MONUSCO, which will be discussed in more detail in Chapter Four.

### **3.6 CONCLUSION**

A critical analysis of the role of MONUC in peace and security issues in the DRC calls for an analysis of the outcome of MONUC's achievements and limitations of their mandate. MONUC's first mandate of observation was successfully implemented. The assessment of MONUC's significance in the problematique of peace and security in the DRC has, however, on balance showed more failures than successes. Since 2007, MONUC has increased its support in accordance with the evolution of its mandate, yet, despite numerous initiatives the DRC army still faces many challenges.

MONUC showed great determination and commitment to reduce the humanitarian disaster that was occurring in the DRC. Despite the fact that its mandate was focusing marginally on the protection of civilians, in practice, in the field of peacekeeping, the UN exhibited some limitations. UN missions with a mandate "to protect civilians under imminent threat" required a mandate of the use of force, coupled with the authority and expectations that peacekeepers would act. Without these parameters, most UN forces would find that mandates to protect civilians lie outside their capacity—hence undermining the meaning of the mandate. Capacity was especially important where conflict continued and where parties to a peace agreement provided only partial consent to a UN or multinational peacekeeping force. In general, well-armed and experienced troops in sufficient numbers may have been able to provide security for vulnerable populations in a challenging region such as the DRC, but poorly trained troops in insufficient numbers with limited supplies were, on the other hand, unlikely to provide more than a presence—if at all. Quality information and a clear chain of command were also essential, as the tragic events in Ituri and Bukavu demonstrated.

The UNSC needed to provide MONUC with conceptual clarity about how the operation should approach the protection of civilians, rather than an observation of their mandate.

Ideally, this strategy should have been consistently understood throughout the leadership of the mission, by the troop contingents, and within the UNSC. After struggling for years, MONUC had developed a clearer concept by 2005 because the mission had operated more in accordance with its Chapter VII mandate. Peacekeepers conducted cordon-and search operations and worked with local populations to identify spoilers to the peace. MONUC leadership began to use the goal of protection as an organising tool to integrate civilian and military roles. A new mission strategy attempted to address civilian vulnerability across the board, from human rights monitoring and reporting, to the provision of humanitarian space and coercive physical protection. No single concept defined the mission's civilian protection efforts but rather, the mission embraced multiple ideas and strategies.

MONUC has also played a central role through the actions of the 750 police officers that had been deployed. It supported the DRC government in the establishment and implementation in 2005 of a National Plan for police training. The support of MONUC in this process was significant. It collaborated with and supported the IEC with financial resources, security equipment and logistical plans.

Thus, the roles of MONUC in peace and security issues, from a human rights perspective, were far from satisfactory. This is evident because the Congolese people have continued to suffer atrocities at the hands of the rebels and national army soldiers. Much progress still needs to be made in this regard. An analysis of the strengths and weaknesses of MONUC's mandate to resolve the DRC conflict shows its limits gauging by its set mandate. In addition, the political situation in the DRC was much better in 2001 to 2009, hence it became necessary to configure the mandate of MONUC. The next chapter reviews the mandate of MONUC in terms of conflict resolution and peacebuilding.

## **CHAPTER FOUR**

### **THE SIGNIFICANCE OF THE TRANSFORMATION OF MONUC INTO MONUSCO**

#### **4.1 INTRODUCTION**

The chapter discusses the transformation of the UN Organisation Mission in the Democratic Republic of the Congo (MONUC) into the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO), with the objective to achieve peace and security, with a particular emphasis on the protection of civilian populations and stabilisation according to its mandate. The chapter begins by providing a chronicle of the crisis between the DRC government and MONUC, followed by a discussion regarding the request by the DRC government for the gradual withdrawal of MONUC's troops from the country. In addition, this chapter examines the deterioration of the climate distrust between the DRC government and MONUC; the future of MONUC according to the UNSC Resolution (S/RES/1906) of December 2009 and the means for the reconfiguration of MONUC's mandate; it also provides an overview of the mandate of MONUC in relation to MONUSCO through the UNSC Resolution (S/RES1925) of 28 May 2010. The chapter then concludes with a focus on the outcome of MONUC's involvement in the peace and security problematique of the DRC.

The controversies involved encouraged this study to analyse the situation in the DRC, with special reference to the principles established by the practice and doctrine regarding the withdrawal of an UN peacekeeping mission. The withdrawal of the UN peacekeeping forces had to be planned and implemented in consultation with all local and international stakeholders, in order to minimise the disruption of international programmes and their impact on the population, including the general environment of the country (UNPKO, 2008: 99-101). The institutional liberalism theory makes provision to negotiate thereby providing instances of cooperation, albeit with minimal institutional structures for support (Keohane, 1988: 380). Keohane argues that a fundamental aim of any peacekeeping action or operation is to influence, through its presence, belligerent

factions in conflict to come together in a sustained peace process. In this regard, this assessed the mixed outcome of MONUC's mandate in relation to the issues of peace and security, which highlighted the weaknesses of MONUC after 11 years of its operation. These mixed outcomes are evident in the fact that although the political situation appears to be stable since the establishment of political institutions after the 2006 elections, many other challenges<sup>100</sup> continue to beset the country.

## **4.2 CHRONICLE OF THE CRISIS BETWEEN THE DRC GOVERNMENT AND MONUC**

Initially, after a period of intense conflict in the DRC resulting in violent and bloody war, the UN remained silent in spite of the fact that a total of seven African countries' official armies were involved. After the realisation of the enormity of the crisis, stopping this violence became an urgent priority for the sake of ordinary people who were innocent victims. Many rounds of peace negotiations were subsequently initiated under the auspices of the UN, which led to a series of peace agreements. However, these agreements were in many ways insufficient for the conflict. Despite the failure of these agreements, the UN was committed to the implementation of a peace process, and showed this by sending one of the largest and most expensive peacekeeping operations to the DRC (Berkman and Holt, 2006: 154-166).

According to Keohane (1988: 380) the institutional liberalism theory correctly interprets the conditions under which international institutional cooperation takes place. It is therefore necessary to understand how MONUC operated, including analysing the conditions under which it came into being. After 11 years of UN presence in the DRC in the form of peacekeeping operations, the mission entrusted to MONUC has evolved over time. Initially created for the monitoring and observation of the Lusaka Ceasefire Agreement, MONUC has been given enormous tasks, starting with the observation of the cease-fire, monitoring of the disengagement of troops towards recovery, taxation and the consolidation of peace in the DRC.

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<sup>100</sup> Poverty, poor educational infrastructure and poor economic infrastructure, among other.

This study analyses the three major indicators which led to a crisis between the DRC government and MONUC, namely President Mobutu's authoritarian regime, the 2006 elections, and the regional interference in the Kivus.

The first indications of an impending crisis in the east were the negative outcomes associated with President Mobutu's authoritarian rule, under which the eastern provinces were important only insofar as they provided natural resources. These were used to service patronage networks through which Mobutu and his elite controlled the State (Reyntjeans, 2009: 13-23). Consequently, amongst its many mistakes, the government failed to address rising tensions over citizenship and access to land which defined local politics in the eastern part of the DRC. In particular, it never successfully determined the political and social position of the population with a Rwandan background like Banyarwanda in North and South Kivu (Vlassenroot, 2006: 54; Prunier, 1997: 195-198). By the early 1990s the Banyarwanda, numbering less than a million (Mamdani, 2001: 235), were increasingly marginalised from political and public life. The province of North Kivu in particular was progressively under total control of the army group and government was no longer controlling it (Tull, 2003: 433).

The second sign that heralded a crisis in the east appeared at the end of 2006, following the announcement of the results of presidential, legislative and provincial elections. The stinging defeat in its stronghold, — North Kivu, — in favour of Kabila's AMP against the Rwandan-backed RCD, meant that the latter lost power and control over the economic and political environment in Goma and the surrounding territories (Sriram, et al., 2009: 123-124). Although a peace deal was signed between the warring factions in Goma in January 2008, violence continued to occur intermittently. Despite the fact that North Kivu's history forms an important backdrop the CNDP's emergence was more immediately linked to political changes in North Kivu which were brought about after 2003 by the political transition. The province has a history of conflict, a legacy of citizenship crises, and was heavily affected by the security concerns and economic designs of neighbouring States (Vlassenroot, 2006: 52).

Thirdly, the regional interference in the Kivus and Congolese politics in general, had economic dimensions which remain relevant even in 2014, and pose significant challenges for the relations between the DRC government and MONUC. It was considered to be vital to restore peace, provide security for citizens, secure extensive borders and tackle the looting of DRC's resource wealth by warlords and neighbouring States (Nest, 2006: 11-54). Nest posits that the fact that the resulting war economy has been dominated by armed actors working in close collaboration with domestic and foreign private companies, as well as criminal activities have been an intrinsic element of the war economy. The UNGS report (S/2001/357) went so far as to allege that a scramble for DRC's mineral wealth was a primary factor for the continuation of the conflict. Such networks facilitated the export of Coltan and tin by rebel groups and the intervening armies, and this contributed directly to the high levels of insecurity in the region which resulted from the financing of their operations (Global Witness report, 2005). Rwanda, in particular, has economic interests in the Kivus, which their interventions helped to facilitate and protect.

The above three major indicators have arguably not been taken seriously by the UNSC in its considerations. However, MONUC solely focused on the belligerent signatories to the Global and All Inclusive Agreement of 2002, neglecting the real core causes of the conflict in the DRC. As a result, these indicators resulted in the creation of armed groups like AFDL, RCD, MLC, Mai-Mai, CNDP, and later M23 who had the same agenda. MONUC's efforts in the DRC since the official end of the conflict in 2003 have focused primarily on enhancing empirical statehood. Nevertheless, the position of peacekeepers was sometimes the most uncomfortable. The changing pattern of conflict particularly after an eventual peace agreement arose, with new factions that did not recognise the UN mission's mandate, thereby placing MONUC's operation in a precarious position. Thus, the Brahimi report (A/55/305–S/2000/809, para. 51) stated that the UNSG was able, depending on the circumstances, to consider the worst case scenario. Brahimi recommended that the peacekeeping forces, in their planning, should anticipate situations where the local actors, for example the Mai-Mai, who had historically exhibited worst-case behaviour, did not cooperate. It means that UN

mandates should, therefore, specify an operation's authority to use force, in which case the operation should be given more staff and be better equipped. In this regard Brahim's views, suggest that an analysis should be addressed in the manner of the expectations of international institutions like the UN (Keohane, 1988: 387). It can be argued that the costs of MONUC's outcomes were relatively low compared to the benefits of peace and security in the field of peacekeeping. MONUC was therefore, set-up to improve the ability of the State to provide security, particularly by facilitating the creation of a new national army incorporating former warring groups. Warlords however frequently challenged such attempts to expand State control into the areas in which they operated.

After the signing of the Global and All Inclusive Agreement in Pretoria in 2002, Rwanda officially withdrew its military forces from the DRC.<sup>101</sup> However, the political reasons for Rwanda's initial involvement had not abated, as the FDLR was still active and militia groups continued to threaten Tutsi communities (Hilgert and Spittaels, 2008: 8-11). Rwanda's actions perhaps explain the accusations since 1998, that it was funding and supporting dissident rebel groups in the DRC. It seems to be clear that Rwanda maintained a covert presence in North and South Kivu through its proxy RCD-Goma, CNDP, and later M23.

In the Eastern DRC, province of North Kivu in the mid-2007, General Laurent Nkunda's insurgency, like many others, was arguably a creation of Rwanda's hegemony. It defined itself primarily in relation to the perceived failures of the central State. General Laurent Nkunda's party, the CNDP claimed that it was primarily concerned with the protection of Tutsis from the genocide forces that arrived in the Kivus from Rwanda (Carayannis, 2009: 5). Notably, the claims that the DRC government had failed to provide security in the east and that Nkunda's group was filling a State function in doing so were not without merit. Low-level fighting between government forces and troops of

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<sup>101</sup> Emeric Rogier, 'The Inter-Congolese Dialogue: A Critical Overview', in Mark Malan and João Gomes Porto (eds), *Challenges for Peace Implementation. The UN Mission in the Democratic Republic of the Congo*, Pretoria: Institute for Security Studies, 2004, pp. 25-42, [http://www.issafrica.org/pubs/Books/CoPBook\\_May04/Intro.pdf](http://www.issafrica.org/pubs/Books/CoPBook_May04/Intro.pdf), [accessed on 15 April 2010].

the renegade Tutsi General Laurent Nkunda escalated into a major confrontation. Since then, clashes killed more fighters and civilians forcing the civilian population to relocate (HRW, 2008: 1-3). The report stated that the DRC was again facing the largest humanitarian disaster in the world. While MONUC had adopted a more proactive attitude between 2005 and 2007, the mission's activity became more limited after the transition period, which came to an end after the DRC had a legitimate elected government and had to be considered a sovereign State. This implied that it had now become the government's primary responsibility to protect civilians. This was emphasised by the UNSG report (S/2007/156) which declared that the mission's role from then onwards would be mainly restricted to supporting the FARDC, as had been demonstrated in the field.

In defiance of a national army that was still under restructuring and the 3,500 peacekeepers from MONUC who were deployed in North Kivu, from 2004 to 2008, supported by Rwanda, Nkunda continued to resist the authority of the State. His forces carried out assaults on the provincial capitals of North and South Kivu, fighting against MONUC and the FARDC. His attacks, though brutal and often leading to human rights abuses by troops under his command, were justified by his supporters as being necessary to protect Tutsis in the DRC and, by extension, those in Rwanda (HRW, 2004). The FARDC's inability to exercise an effective monopoly of force meant that different groups, including those led by warlords, local militias and MONUC, provided some localised security in the areas they controlled. The existence of areas beyond the effective control or interest of the DRC government had, effectively facilitated the growth in power of private actors (Tull, 2003: 431).

MONUC's failure to protect Goma and Kiwanja meant that the peacekeepers struggled to protect civilians, due to the fact that MONUC was facing several logistical and technical constraints (HRW, 2008:22). According to its mandate, MONUC was required to provide both support to the FARDC and monitor ceasefire lines between the FARDC and the CNDP. When FARDC elements withdrew, MONUC was left behind to protect civilians from the CNDP (Reynaert, 2010: 18). Consequently, civilians and UN troops



ended up in a fire fight and were used as living shields. The protests prevented MONUC from performing its duties and consequently led to a reduction in the number of patrols in the region of Kiwanja. The DRC government proposed to Nkunda a progressive integration of his forces into the army, by granting them a period of “confidence-building”, during which they could remain based in North Kivu. His troops were to be “mixed” into FARDC.<sup>102</sup> The government demanded that all armed groups still “in dissidence” to disarm and choose between their integration into the unified national army or demobilisation.

#### **4.2.1 Failure of the “mixage”<sup>103</sup> and its dramatic humanitarian consequences**

In early 2006, and again in August and November 2006, Nkunda’s troops fought against FARDC, making plain their continued autonomy and refusal to allow the integrated force to take part in the *brassage* process. In an effort to avoid further military operations, FARDC and Nkunda reached a compromise at the end of December 2006. There was no written agreement, and both sides have contradictory accounts of what they had committed to. According to the government, the agreement had been strictly military, dealing with the progressive integration of Nkunda’s troops into the national army, a process called “mixage” (Scott, 2008: 190-192). Scott posits that six brigades were to be created out of Nkunda’s 81<sup>st</sup> and 83<sup>rd</sup> brigade, together with three non-integrated government brigades. Nkunda agreed to participate in the *mixage* process of incorporating his troops into the FARDC (*Ibid*, 192).

The implementation of the *mixage* process began in January and February of 2007. Unfortunately, within months the arrangement would collapse, but even before that happened, participants presented different versions of what had actually been agreed to between the parties. Although this may seem to be an unusual strategy for a warlord, it reflects a pragmatic calculation on Nkunda’s part (Scott, 2008: 190). Integration offered

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<sup>102</sup> Rwandan Chief of Staff General James Kabarebe hosted a meeting in Kigali between Nkunda and FARDC Air Force Commander General John Numbi, both of whom had served under him during the initial invasion of the Congo, then Zaire, in 1996.

<sup>103</sup> Since they were founded in 2003, the FARDC have constantly been accepting within their ranks members of armed groups after their eventual submission to integration processes more or less quickly expedited.

him the chance of formalising his status in North Kivu and achieving his military objectives of destroying or repatriating Rwandan Hutu militias. Essentially, Nkunda used the integration process as a resource to pursue his own objectives. His soldiers were all given new uniforms and received salaries, but they remained largely independent from the government's army (HRW, 2008: 18). Nkunda also continued to support and form a separate militia, while setting up a parallel civil administration, including the police, which was still under his control. The operations against Rwandan Hutu rebels in areas with high concentrations of Hutu populations, particularly in the Rutshuru territory, led to the massive displacement of populations. These operations were accompanied by serious abuses against civilians, who were often suspected by the military of being members of the "*mixed*" brigades provided by Nkunda, in collaboration with Rwandan Hutu fighters.

However, the failure to neutralise Nkunda through negotiations, resulted in the escalation of the suffering of civilians emitted by Nkunda militarily. Predictably, Nkunda immediately reacted by launching an attack on Sake, seizing the town despite MONUC's presence, as the national army crumbled due to the breakdown in logistics and desertions (Hilgert and Spittaels, 2008: 6). He then advanced on Goma, despite warnings from MONUC. For the first time, UN peacekeepers reacted forcefully against Nkunda, with an attack by helicopters and infantry, killing between 200 and 400 insurgents.<sup>104</sup> It was suggested that although warlords may "possess the capability to create separate States by virtue of their de facto control" (Reno, 1998: 172), their strength was often directly related to their position within regional and local political and security dynamics.

In May 2007 the government declared the end of the *mixage* process and called for the return of all the mixed brigades, while announcing the deployment of integrated brigades to replace them. The government also launched an immediate appeal to mainstream the process of *mixage* or demobilisation of all other Congolese armed

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<sup>104</sup> Interview with Mr Mamadou Kuyate, Head Office MONUC, Pretoria/RSA, on Friday, 1 October 2010, in his office.

groups that were still present in the Kivus. It also once again urged the Rwandan Hutu fighters to disarm and leave the DRC. Even after abandoning the *mixage*, Nkunda's military strength was reinforced by frequent trips to Rwanda to recruit fighters from the Congolese refugee camps, and reportedly, by direct military aid from Rwanda.<sup>105</sup> However, *mixage* was poorly organised and executed and in addition, there was no formal agreement, timetable or follow-up.

This compromise collapsed by mid-2007, leaving Nkunda in a far stronger position militarily and politically than he had been at the end of 2006. The failure of the attempt to achieve a political solution also undermined the efforts of national authorities to reassert administrative control in the region, and increased ethnic tensions. Events in east DRC appeared to primarily reflect decisions and policies made in Kigali rather than Kinshasa, as illustrated by Rwanda's willingness to back, and in Nkunda's case remove, warlords who have acted as their proxies (Tull, 2003: 442-443). Rwanda's influence in the Kivus was a powerful illustration of the need for MONUC's troops deployed to the town of Sake to calm the situation, and Nkunda's troops withdrew.

The failures of the *mixage* process, which led Nkunda to take over the town of Goma, and the failure of MONUC's troops to protect civilian populations, resulted in the predictable crisis between the DRC government and MONUC becoming a reality. The DRC government and MONUC did not seem to have had a good relationship since October 2008. MONUC troops, who had refused to be enlisted in the initial offensive, observed hundreds of troops fleeing towards Goma and southwards along the shores of Lake Kivu, denouncing the treason and dismal military leadership.<sup>106</sup> This distrust was exhibited in the conduct attributed to MONUC staff, including their complacency and complicity against CNDP's rebels. MONUC's credibility was greatly damaged by its

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<sup>105</sup> These reports were based on a confidential UN report, which claimed that the FARDC had been cooperating with Hutu militias to fight Nkunda in 2008, whilst Rwanda had supplied aid and child soldiers to Nkunda to back his campaign. See, DR Congo rebels "stalling talks, BBC News Online, <http://news.bbc.co.uk/1/low/world/africa/7776990.stm>, [accessed on 15 April 2010].

<sup>106</sup> Interview with Mr Mamadou Kuyate, Head Office MONUC, Pretoria/RSA, on Friday, 1 October 2010, in his office.

inability to prevent the CNDP offensive and stop the repeated assaults on civilians by all sides. As a result the DRC government pushed for the withdrawal of MONUC.

#### **4.2.2 Context surrounding the DRC government's request for the gradual withdrawal of MONUC**

The DRC government's demand for the withdrawal of MONUC had aroused much debate in the DRC and at UN Headquarters, resulting in indignation and fear among all actors involved in the DRC peace process. For the civilian population, the fear of renewed violence by armed groups was real.<sup>107</sup> Humanitarian organisations operating in the eastern part of the country warned that any premature withdrawal of UN forces would be disastrous for the stabilisation of the country. In a report entitled "A Fragile Future", Oxfam stated that without a strong UN presence in the DRC, there would be a general resumption of hostilities, which would destroy the achievements of the historic 2006 elections.<sup>108</sup>

In this regard, it is necessary to examine the motivations for the DRC government's request. The Congolese opinion concerning the MONUC mission was that it was not a guardian angel of peace, but rather a means for covering up the Congolese deaths at the hands of the Rwandan army.<sup>109</sup> However, with regard to the alleged weaknesses of MONUC, there was also "almost constant involvement of countries which contributed troops" (Vircoulon, 2005: 82). This refusal of peacekeepers to protect civilians from rebel groups demonstrated the weaknesses in the command of the UN troops in the DRC. The involvement of these States was manifested in two ways: the refusal of States to send troops to fight against rebels, and the reluctance of States to place their troops under UN command. The contribution to a country's peacekeeping operation sometimes affected the balance of power of the great power. Warner (1995: 181-182)

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<sup>107</sup> Xinhua, "DRC, MONUC Ituri disengages" the departure of UN troops in certain localities in Ituri Dakwa and Banda alarmed people who feared the return of the rebels RLA, <http://french.peopledaily.com.cn/International/6962331.html>, [accessed on 26 July 2010].

<sup>108</sup> Bangos R. « Suivant Oxfam, un retrait prématuré de la MONUC serait un désastre humanitaire pour le Congo », <http://www.grioo.com/blogs/Hobbysnews/index.php>, [accessed on 8 August 2010].

<sup>109</sup> Interview with Mr Olivier Ngambo Bura, Lecturer at Department of International Relations at University of Kinshasa, Tuesday, 15 February 2010, at his Office Kinshasa/DRC.

suggested that peacekeeping was not used as an effective tool for keeping peace. It can be argued therefore, that the disarray in MONUC's leadership and the confusion over its strategy led to the resignation of the then new force commander, Spanish Lieutenant General Vicente Diaz de Villegas y Herrería who disagreed with the mission's political direction, and who had been appointed by the UNSG to lead the MONUC forces.<sup>110</sup> MONUC faced the wrath of civilians in the field, who blamed it for doing too little to protect them, and it became a target of choice for all forces, while deadly skirmishes continued.

In the interest of not losing troops to the DRC, the concerned States providing troops asked the DRC's military not to intervene, even when it came to protecting civilians. This became a dilemma for the DRC military which ought to have protected its population in the face of danger. Furthermore, the following of the conditions set by the sending States were a necessary component of the agreement. The commitment and interest had generated a mercantilist taste in peacekeepers, some of whom did not hesitate to indulge in mining. This resulted in solidarity between the UN and armed groups. Viewed in this light, the warm embrace of Laurent Nkunda by Colonel Chand Indian Sahara<sup>111</sup> at the end of the mission did not come as a surprise. Shaw (1995: 1) noted that peacekeepers made efforts to behave towards the hostile groups with impartiality. This behaviour by some MONUC officials greatly offended the DRC authorities. It can be suggested that the mission's ineffectiveness in establishing security in the eastern DRC, in particular in the insurgency-prone provinces of North and South Kivu, as well as Orientale, was compounded by allegations of the UN's alleged involvement in plundering resources, running guns in exchange for minerals or ivory and sexual exploitation and abuse (Månsson, 2005: 512-514). MONUC was also accused by the DRC government of creating opportunities for powerful Western nations

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<sup>110</sup> Great Lakes Echoes, 2008. General Diaz was of the opinion that MONUC has insufficient capacity to fulfil the task before it at a time when the situation in the Eastern DRC was rapidly deteriorating, [www.eurac-network.org](http://www.eurac-network.org), [accessed on 15 February 2010].

<sup>111</sup> The case of the Indian Colonel Chand Saroha who had made comments in support of General Nkunda before leaving the DRC. [http://www.un.org/News/briefings/docs/2008/081003\\_Doss.doc.htm](http://www.un.org/News/briefings/docs/2008/081003_Doss.doc.htm), [accessed on 15 February 2010].

to advance their parochial interests in the DRC. This can be equated to the famous Trojan horse.

Widespread frustration at the mission's continued presence led President Joseph Kabila to request for MONUC's withdrawal from the DRC starting before 30 June 2010, the 50<sup>th</sup> anniversary of DRC independence (Autesserre, 2010: 235-239). The UNSC met in May 2010 to discuss the mandate and configuration of MONUC, as well as the future for a UN presence in the country (UNSG report (S/2010/288)), and it was decided that MONUC should withdraw gradually, with all the peacekeepers leaving the country by December 2013. Many other claims were made with regard to MONUC's complicity in relation to the illegal plundering of natural resources and arms trafficking for Congolese militias. It was in this context that the request for the withdrawal of MONUC was born, with a view that this would serve the interests of peace in the DRC.

The mandate of MONUC would sadly soon come to an end, even though the country was arguably home to the most deadly and violent humanitarian crisis that the world had ever seen. President Joseph Kabila called for their immediate departure, and the Human Rights Watch accused MONUC of complicity with regard to the massive human rights abuses against the local population. In addition, the abandonment of many illegitimate children parented by MONUC workers would happen if MONUC left the country. However, there was an obvious necessity for some stability as the local population was in desperate need of a change from wide-spread violence and an incredibly corrupt government system.<sup>112</sup> President Kabila subsequently requested the UN to submit a proposal, including a calendar, for its progressive withdrawal, preferably commencing by June 30, 2010, based on the evolution of the security situation in the country.

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<sup>112</sup> The calendar and the process of withdrawal were mutually agreed upon between the government and the UN. [http://www.internationalpeaceandconflict.org/profiles/blogs/the-dr-congo-monuc-andjoseph#.U7Ut\\_nPmSyOA](http://www.internationalpeaceandconflict.org/profiles/blogs/the-dr-congo-monuc-andjoseph#.U7Ut_nPmSyOA), [accessed on 15 April 2012].

### **4.3 DETERIORATION OF TRUST BETWEEN THE DRC GOVERNMENT AND MONUC**

The DRC government and MONUC as outlined had not been on good terms since October 2008. There were several difficult challenges for the UN to address, which were the basis for a philosophical discussion on the use of force. Wedgwood (2001: 78) concluded that inadequate force structures were often the reasons for the reluctance of member countries to contribute troops. However, Wedgwood emphasised that this amounted to an unwillingness to admit that collective security requires robust action and that the UN cannot substitute itself for States and hope to avoid the modalities found necessary by States (78). Very little could be accomplished through the Chapter VII mechanism to muster armed forces into collective military action.

#### **4.3.1 Passivity of MONUC regarding the massive violations of human rights**

The approach by the UNSC and, in particular, the UNSG with respect to the protection of civilians was one of willingness but with precaution. It reflected the UN's fear of becoming involved in problematic situations where peacekeeping and peace enforcement became blurred and impartiality was lost, as in Bosnia and Somalia (Murphy, 2007:153-155). This contradicted MONUC's mandate to protect civilians, as highlighted in the following words: "The deteriorating situation had placed MONUC in an uncomfortable position". North Kivu, Ituri, South Kivu and North Katanga were steeped in insecurity. So what did MONUC do? Much criticism has been levelled against MONUC in this regard (Obotela, 2008: 855). Some events in eastern DRC appear to primarily reflect decisions and policies made in Kigali rather than Kinshasa, as illustrated by Rwanda's willingness to back, and in Nkunda's case remove, warlords who had acted as their proxies (Tull, 2003: 442-443). MONUC officers had been accused of sexual abuse since 2004 (UNSG Report (S/2004/650)). In spite of these announcements; MONUC's public image had been seriously tarnished by these allegations.

At the beginning of the transition in 2004, Major Joseph Kasongo<sup>113</sup> rebelled against the DRC Government's point of view, which violated the agreements made by the Inter-Congolese Dialogue. Under pressure from MONUC, Kasongo was freed and sent back to Bukavu the following day. It was noted that the large scale killings in Bukavu were attributed to Colonel Jules Mutebusi and General Laurent Nkunda, without any intervention by MONUC (ICG, 2004: 3-4). The UNSG's explicit call upon the UNSC to authorise MONUC to protect civilians through the use of force was ground-breaking, but also to be expected. Gray (2002:180) emphasised that the provision was called a 'pertinent development', introducing a 'new legal and moral dimension' to peacekeeping. However, the HRW report (2008:22) indicated that what most shocked the local and international community was the fact that UN peacekeepers had allowed civilians to be massacred by CNDP soldiers, without any intervention from them.

#### **4.3.2 MONUC acting as a permanent force of occupation in the DRC**

The doctrine of the occupation of State territory by UN peacekeeping operations did not give concrete examples from which one can identify the characteristic elements of such an occupation. Moreover, how can one contribute to the notion of developing a doctrine of territorial occupation? For some authors, a military occupation refers to the more or less prolonged presence of military forces of a State in the territory of another State. Because of this presence, the occupying State believes that it has the right to behave like a territorial authority against persons and property in the occupied territory (Nguyen et al., 2002: 485). As defined above, military occupation should not be confused with the requested intervention of a military force, such as that of the UN in the DRC. However, shifts from military occupation to the intervention of a military force and vice versa were possible. Could the case of the DRC be an example of this shift?

The question that has been posed above is one that seeks facts. There is minimal evidence of the shifts in MONUC to a passive or active occupying force. With the

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<sup>113</sup> Major Joseph Kasongo was a RCD-Goma officer, together with other RCD Generals Nyabiola and Nkunda, Colonel Jules Mutebutsi was fighting the DRC government in Bukavu, on 24 February 2004.



passage of time, certain documents were declassified, in which the emergence of this new doctrine was confirmed in relation to the presence of UN forces in the DRC. Vircoulon (2007: 9) referred to this as the “new figure globalisation in Africa”. It can be seen in the renewed intervention of the UN, which was extensive, and the role of the international community in national affairs. A perfect illustration of this role was provided by the Global and Inclusive Agreement, which delegated an international warranty to the Inter-Congolese Dialogue.<sup>114</sup> This guarantee was made by the International Committee of Support to the Transition (CIAT).<sup>115</sup> The role of this institution was essential to the success of the transition, and formalised “controlled sovereignty” in the DRC (Vircoulon, 2007: 14).

International trusteeship through CIAT was tolerated because of the post-conflict situation in the country. This persistence of the desire to keep the DRC under “international control” was highlighted in the case of the Belgian statesman Karel De Gucht,<sup>116</sup> who apparently claimed the status of a new Leopold II in an independent DRC fifty years later (Breckman, 2009: 37). While the DRC authorities struggled to get rid of this tutelage which had become cumbersome, some members of the MONUC military contingents were engaged in acts against the sovereignty of the DRC. These UN peacekeeping forces in the DRC were easily assimilated into “**active occupational forces**” due to the fact that they had ceased to be under UN command and obeyed their respective governments’ “**passive occupational forces**”. To support this opinion, Breckman (2009: 224-225) described this situation as decompressing the hidden side of MONUC, when she noted that: “The behaviour of MONUC itself worsened the effect of these betrayals: Congolese battle plans were designed with MONUC officers and helicopters had been promised support. But at the last minute, the Indians refused to fly their aircraft, thereby depriving the government troops air cover expected”. The order

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<sup>114</sup> Annex IV of the Global and Inclusive Agreement, Pretoria, 17 December 2002; CIAT's role was to ensure the proper implementation of the Agreement and to support the programme of transition in the DRC.

<sup>115</sup> Consisting of the ambassadors of the five permanent members of the UNSC, Angola, South Africa and the European Union as major donors, CIAT had intervened in the management of government affairs and forced the Parliamentary Assembly to rework the electoral law that had been established, as well as outlining the work of the government by enacting a legislative agenda.

<sup>116</sup> On 18 July 2004, Karel de Gucht was appointed Foreign Minister of the EU, replacing the liberal Frenchman Louis Michel.

was said to have had come from New Dheli, which banned the Indian contingent to initiate air operations. Subsequently, MONUC reserved little publicity to an internal report produced by its own office investigation, which established that peacekeepers had sold arms and ammunition to Nkunda, meaning the official representatives of the MONUC were further fuelling the conflict by indirectly armouring Nkunda.

#### **4.4 FORMALISING THE REQUEST FOR THE WITHDRAWAL OF MONUC**

The announcement of the intention of the DRC to get MONUC to withdraw within the proposed time-frame had led to misunderstandings, which were amplified by the repetitive interviews held with the DRC Minister of Information and Communication.<sup>117</sup> As a result, there was a need to determine the contents of government's request for withdrawal of MONUC and the policies that accompanied it.

##### **4.4.1 Ambiguity of the contents of the government's request for the withdrawal of MONUC**

When President Kabila announced his desire to see MONUC withdraw from the DRC, there was confusion among interested observers. The first speculation was that President Kabila was going to demand the immediate withdrawal of MONUC.<sup>118</sup> However, he changed his view regarding the withdrawal process in the UNSG report (S/2009/623, para. 48), which emphasised the misinterpretation of his original message. His change of view was driven by the continued presence of armed groups in the eastern DRC, the DFLR, ex-FAR/Interahamwe and the dissident militia of Laurent Nkunda in the province of North Kivu. It now seemed clear that the purpose of the request by the DRC government was the presentation of a MONUC withdrawal plan by 30 June 2010.

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<sup>117</sup> Mende said that an official request was sent to the UN and that it was examined by the concerned parties. <http://reliefweb.int/report/democratic-republic-congo/kinshasa-asks-un-mission-leave-country-within-year>, [accessed on 22 June 2012].

<sup>118</sup> After the inauguration of President Joseph Kabila on 6 December 2006, the UNSC considered it necessary to keep MONUC in the DRC before extending its mandate until 31 December 2008.

It was on 29 November 2009 in Mbuji-Mayi that President Kabila held a press conference, during which he announced the extension of the MONUC mission with a changing mandate. To confirm what President Kabila had said that the Minister of Government's spokesman Lambert Mende gave the position of the DRC:

At the press conference Lambert Mende said that the DRC government doesn't see what MONUC have not been able to do in 12 years that must be done in two or three years. Mende thinks that the DRC must come back to a traditional [relationship] with the UN in general, not an exceptional one. He emphasised that the MONUC was an exceptional relationship.<sup>119</sup>

This move by the DRC government suggests that it was aware that the mandate of MONUC as it stood was ineffective. Despite the disagreements between the DRC government and the UN mission in the past, many advocacy organisations were of the view that the time had not yet come to put an end to the peacekeepers' stay. Andrew Philip from Amnesty International and specialist researcher on DRC, while commenting at the press conference of Lambert Mende; he denounced the move by the DRC government as being self-motivated and against the interests of its own citizens. This observation made by Phillip suggests that the crisis was further compounded by the lack of dialogue between the DRC government and the DRC civilian population.

Philip also said at the press conference that the UN was deeply concerned. For the UN it was a reckless request and a reckless decision because the security situation in the eastern part of the country, where MONUC was primarily concentrated, was not yet stable enough to allow for a substantial reduction of peacekeepers. The humanitarian situation remains catastrophic. He emphasised that the real problems that remain in the East have not been dealt with.<sup>120</sup>

In analysing the UNSC Resolution (S/RES/1906), President Kabila, as reported by Radio Okapi, did not present a withdrawal plan which was due to begin on 30 June

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<sup>119</sup> Voice of America, 07 March 2010, UN Backs New DRC Offensive, <http://www.voanews.com/content/un-backs-new-drc-offensive--86921042/153613.html>, [accessed on 15 June 2010].

<sup>120</sup> Ibid.

2010. The situation between the DRC and UN was therefore not a new development for either party in this regard. Following the reactions from international organisations working in the DRC, especially humanitarian organisations, President Kabila was obliged to provide more information. He stated that the DRC government had not asked MONUC to pack up and leave the DRC immediately, but instead to begin to prepare itself for withdrawal. He later stated the following:

We have asked MONUC to give us a disengagement plan, and my hope was that this will be done by the end of this year. It was based on this plan that discussions will be held with MONUC regarding the practicalities of progressive withdrawal.<sup>121</sup>

The adoption on 23 December 2009 of UNSC Resolution (S/RES/1906) had exacerbated the differences between the views of the DRC government and UN regarding the future of MONUC. The reaction of the DRC government to this UNSC Resolution was unequivocal and it was up to the UN mission to present a plan for the gradual withdrawal of MONUC by the end of June 2010.<sup>122</sup> The researcher witnessed a standoff between the DRC government and the UN for the first time since the inception of MONUC and its establishment in the DRC territory.

From a historical perspective, it appeared that the situation was now reversed. In 1963, the initiative for the withdrawal of ONUC came from the UN, but in 2010, the demand for the withdrawal of MONUC came from the DRC government. This comparison also assists to identify similarities between these two periods with regard to the presence of MONUC in the territory. Two similarities are evident. Firstly, the national army was not capable of defending the territory as a whole on its own and the independence of the country, and the police were not able to ensure the safety of persons and their property. Secondly, the disagreement between the DRC government and the UN did not only affect the time of MONUC's the withdrawal, but also provided a kind of authoritarianism which restricted the "prerogatives" of sovereignty.

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<sup>121</sup> <http://www.radiookapi.net>, [accessed on 15 June 2010].

<sup>122</sup> <http://www.lefigaro.fr/flash-actu>, [accessed on 15 June 2010].

#### **4.4.2 Measures accompanying the government's request for the withdrawal of MONUC**

The first measure accompanying the government's decision dispelled doubts about the willingness to see MONUC's gradual withdrawal from the DRC, and this was the convocation of the Supreme Council of Defence, headed by President Kabila<sup>123</sup> whose objective was to examine the withdrawal process of MONUC. It aimed mainly to determine what the government should do after the withdrawal of MONUC forces, in order to avoid instability in the DRC. It then looked at how to prevent the possible interference in the peace already established after MONUC's gradual withdrawal.

The meeting of the Supreme Defence Council was held when the Frenchman Alain Le Roy, Deputy UNSG in charge of the UN peacekeeping mission, arrived in the DRC to speak to the DRC authorities about the presence of MONUC. The objectives of the Supreme Defence Council were devoted to the essential tasks to be accomplished before MONUC's withdrawal began. Among these tasks, the professionalisation of the FARDC could be achieved through various types of training provided by bilateral and multilateral partners (MONUC Magazine, 2009: 11). Another task was to provide equipment to support FARDC operations against the FDLR and the LRA through "Operation Amani Leo", which was planned and conducted jointly with MONUC in respect of international humanitarian, human rights and refugee law.<sup>124</sup>

The Supreme Defence Council found it impossible to accomplish complex tasks that would also strengthen the capacity of the army in the five months prior to 31 May 2010. The tasks were immense: MONUC and the FARDC had to make an inventory to facilitate the withdrawal of UN peacekeepers, particularly in the sensitive areas of Eastern DRC, but also to ensure that it did not undermine the security issue. The UNSC Resolution (S/RES/1906) instructed MONUC to redefine the terms of its reconfiguration, while giving priority to the protection of civilians and coordination of operations with the

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<sup>123</sup> In accordance with Article 83 of the Constitution of the DRC, the President of the Republic is the Supreme Commander of the Armed Forces. He presides over the Council of the Defence.

<sup>124</sup> <http://www.lepotentiel.com>, [accessed on 15 June 2010].

FARDC to disarm Congolese and foreign armed groups, in particular the FDLR and the LRA.

The drawdown arguments of the DRC government, and especially the timing of its announcement, also probably demonstrate internal political calculation. The fact that the government wanted the MONUC withdrawal to be scheduled to take place just before the elections in September 2011 suggests that it aimed to have full control over the implementation of these elections.

The DRC government therefore had reason to fear a decline in genuine electoral support next time around, and may have sought ways to maximise the leverage of incumbency, in order to ensure victory in 2011. In such a situation, the continued presence of the large UN mission may therefore have been regarded as an inconvenience whose withdrawal would assist the government to achieve its aim.

#### **4.5 UN POSITION REGARDING THE FUTURE OF MONUC IN THE DRC**

With regard to the requirements of the DRC government, the UN seemed to maintain dialogue with the DRC authorities, because of the speculation and claims by the government regarding the withdrawal of MONUC. Therefore, one may ask whether or not this attitude of the UN was arguably its way of acting according to its own principles, and even the government seemed to accept this. The government was trying to save face, despite its failures, by making the withdrawal of MONUC a matter of national opinion. It can be concluded that in this way, the government was able to defend its independence and sovereignty, and there was no evidence that the UN had refused the government's request. The position of the UN can be found in UNSC Resolutions (S/RES/1906) of 23 December 2009 and (S/RES/1925) of 28 May 2010.

#### **4.5.1 Position of UN and the DRC government in UNSC Resolution (S/RES/ 1906) of 23 December 2009**

The position of the UN with regard to the gradual withdrawal of MONUC, according to the request of the DRC government, created the need for consultations between the DRC government and UNSC. This was necessitated because the UNSC Resolution dated 23 December 2009 went in the opposite direction namely in the name of stability and regional security. However, the adoption of this UNSC Resolution (S/RES/1906) and the reactions that accompanied it, emphasised the need for dialogue between the two parties involved in the future of MONUC, in order for them to determine how to reconfigure the mandate of MONUC and find reasons to justify the withdrawal of UN forces from the DRC.

The spokesman for the DRC government announced, after a meeting between President Kabila and UN envoy Alain Le Roy that MONUC troops would be reduced by the end of the year and would focus exclusively on conflict areas. According to him, the entire contingent of UN peacekeepers would be withdrawn by July 2011.<sup>125</sup>

Alain Le Roy, Deputy UNSG in charge of UN peacekeeping operations, indicated that Kinshasa had asked for a “gradual withdrawal” of UN peacekeepers from the end of June 2010 at the commemoration of the 50<sup>th</sup> anniversary of the independence of the DRC. He said that there was “no agreement on a specific date” and did not know “what teams” would be affected by the gradual withdrawal, and that both parties should discuss the withdrawal “in the coming days”.<sup>126</sup>

This policy brief presents the two key positions in the debate on MONUC’s drawdown, and analyses their background. It then discusses the broader question of what was required to complete the peacekeeping job in weak States such as the DRC. The peacekeepers were bound by the Chapter VII mandate, which allowed them to take

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<sup>125</sup> <http://www.congoindependant.com/article.php?articleid=5443>, [accessed on 28 June 2010].

<sup>126</sup> Ibid

“necessary action, in the areas of deployment of its troops and as it deems it within its capabilities, to protect UN personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence.” However, the inadequate mandate of MONUC was seriously criticised in terms of its capacity to protect the civilian population. In theory their role was essentially to provide stability, security and protection in the country while monitoring human rights abuses and assisting in DDRRR. The mission seemed to be flawed, however, as violence kept on increasing among the civilian population. The UN and DRC perspectives were very different, but both raised the question of what conditions had to be met before the peacekeeping task in the DRC could be said to be done. This highlighted the issue of what kind of “progress on the ground” was needed, and how the peace of the drawdown could be adjusted in relation to it. This was a complex question involving a number of challenges, which go beyond reaching an agreement as to where and in what aspects there should be progress before withdrawal.

#### **4.5.2 Dialogue and consultation between the DRC government and the UN**

On 3 March 2010, the UNSG for Peacekeeping Operations, at a meeting with President Kabila, presented the DRC authorities with the proposals for the technical assessment mission with regard to the progressive withdrawal of the MONUC forces over a period of three years. These proposals included a list of critical tasks that would need to be accomplished in keeping with the UNSC Resolution (S/RES/1906, para. 2), and specific areas in which the UN could support the implementation of the government’s plans for addressing the on-going conflicts in the East, including SSR, building juridical and correctional institutional capacity, consolidation and peacebuilding.<sup>127</sup>

The withdrawal of the UN peacekeeping operation had to be planned and implemented in consultation with all local and international partners, in order to minimise the disruption of international programmes and the impact on the population and

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<sup>127</sup> <http://www.radiokapi.net>, [accessed on 15 June 2010].



environment of the country (UNPKO, 2008:99-101). The understandable reaction of the UN and humanitarian organisations towards the decision of the DRC government to demand the withdrawal of UN forces from the beginning of June 2010 necessitated a stable security situation in the DRC. Considering the fact that MONUC forces were supportive structures that lived alongside the local population, they were supposed to be aware of the reality on the ground. The UNSG report (S/2010/164, para. 100) noted that President Kabila explained his government's vision of building the capacity of national institutions to enable them to assume the role that MONUC was playing, stressing that the time had come to allow the country "to fly with its own wings". In this context, President Kabila expressed the view that the withdrawal of the MONUC forces was to begin in June 2010 and be completed by June 2011 (para. 99).

From the foregoing, the risk of a return to conflict was highlighted. However, it was important that the withdrawal of the MONUC forces should be conducted in a prudent manner. They would safeguard the achievements made thus far, help to build upon and consolidate this progress, and enable the national rule of law and security institutions to develop the capacity to take over the current role of MONUC. With regard to the protection of civilians, it was important to facilitate humanitarian access and prevent the creation of a potentially destabilising security vacuum. President Kabila agreed to designate a team of senior government officials to further discuss, with a team from the technical assessment mission and MONUC, outstanding issues and charting the way forward. These discussions were concluded on 9 March 2010.<sup>128</sup> The two teams reconfirmed the government's agreement to the proposal of the technical assessment mission that the withdrawal of the MONUC forces would be conducted in several successive phases.<sup>129</sup>

In terms of these arrangements, a total of up to 2,000 MONUC troops would withdraw from the DRC by the end of June 2010 (S/2010/164, para. 104). The UNSC approved the process, arguing that it was essential for the government and MONUC to jointly

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<sup>128</sup> Idib.

<sup>129</sup> The role of the MONUC forces would be limited to the FARDC Defence Zone 3 (covering the two Kivus, as well as Orientale and Maniema Provinces), where military operations against FDLR and LRA were on-going.

agree on specific benchmarks for measuring progress towards accomplishing the identified urgent tasks. In this regard, it was important for the government and MONUC to define specific tasks, informed by a regional perspective, under which they would declare that the threats from FDLR, LRA and the FARDC had been reduced to a level where they could be addressed by the DRC authorities without MONUC's support.

The UNSG (S/2010/164, para. 138) recommended that the protection of civilians remained the first priority of the Mission. In the eight provinces from which the MONUC forces were to withdraw, the civilian components of the Mission would continue to work with the UN country team to support the initiatives of stabilisation and peacebuilding. The Mission would continue to give priority to the protection of civilians through the promotion and monitoring of respect for human rights, and the strengthening of the capacity of security institutions and rule of law. With regard to the later stages of the withdrawal of MONUC, Mr Ban Ki-moon (S/2010/164, para. 91-95) noted the position of the DRC government, which wanted the complete withdrawal of MONUC by 30 August 2011 at the latest. He also noted the agreement reached with the government to put in place a policy of successive phases of withdrawal. Thus, he recommended to the UNSC that it supports the endorsement of a process that would allow the UN and the government of the DRC to continue their dialogue on the terms and timing of successive phases of withdrawal.

#### **4.6 THE UNSC RESOLUTION (S/RES/1925) OF 28 MAY 2010**

Although signs of DRC's impatience with MONUC had been perceptible for some time, the drawdown debate was triggered in December 2009, when President Kabila voiced his position on the future of MONUC. The UNSC Resolution (S/RES/1925) of 28 May 2010 met the expectations of all stakeholders involved in the process of consolidating peace in the DRC. It was curious that in spite of their divergent views, both the supporters of the gradual withdrawal of MONUC and the proponents of maintaining MONUC's presence in Eastern DRC were satisfied.

#### **4.6.1 Position of the DRC government**

This UNSC Resolution provided the UN mission in the DRC with a plan for the year ahead. However, its adoption was preceded by a largely polarised debate on the mission's future. A sound understanding of the two key positions in this debate was therefore useful in order to facilitate constructive cooperation between the DRC and its international partners in the time to come.

The DRC government's apparently uncompromising stance can be understood against the background of the history of the DRC. MONUC's own performance as well as its relationships vis-à-vis the Congolese were also key to understanding local scepticism. When measured against the goals that had been set for the mission, performance was often disappointing. A crucial issue was the fact that MONUC had repeatedly failed to ensure "the protection of civilians under immediate threat of physical violence", a task which had been part of its mandate since 2002 (Månsson, 2005: 505-508).

The mission succeeded in monitoring the ceasefire and withdrawal of foreign armies from 2000 to 2003, and in assisting with the holding of the elections in 2006. Nevertheless, despite the fourfold increase in troop numbers over its first decade, as well as attempts at organisational learning within the UN, MONUC had repeatedly failed to protect civilians in Ituri in 2003, Bukavu in 2004, North Kivu in 2008, and more consistently in relation to foreign militias operating in the country, such as the FDLR and LRA. In the view of the DRC government, MONUC had to update its mandate according to this issue of protecting civilians.

#### **4.6.2 Position of the UN**

The UN, for its part, hesitated to accept the government's suggestion of a fixed timetable for MONUC's drawdown. In adopting this stance the UN had at least three concerns. The first resonated with other contemporary spheres of an international military presence such as Afghanistan and Iraq, where a vital consideration of involved

outsiders was to ensure that when they left, they could do so “with their heads held high”. MONUC’s status as – the largest UN peacekeeping force in the world, deployed in a crisis-ridden region, – made it a test case for peacekeeping. It was important for the UN’s prestige that the exit from the DRC was conducted in a way that was seen not to jeopardise the organisation’s core values of international peace and security.

The second UN concern was that a quick withdrawal might create a political and military void, paving the way for an upsurge in violence. The concern was that unless institutions were in place, that provided basic services to the population, and unless the army and police were able to protect civilians and the entire country from mass violence, the UN force’s departure might be followed by the emergence of new attacks. Linked to this view was the idea that in the areas most affected by violence, the drawdown should be based on progress in terms of dimensions considered to be key to ensuring that the DRC was prepared to “stand on its own feet”.

The third concern related to the idea of an international “responsibility to protect”. If this norm could be applied, it would seem counter-intuitive to let a mission endowed with this task to leave a country where violence against civilians remained widespread in certain areas. MONUC may often have been unable to protect Congolese civilians from violence, but if its departure would lead to a worsening of their conditions, then in many respects this was no solution at all.

#### **4.7 FROM PEACEKEEPING TO PEACEBUILDING**

The complicated, controversial, and sometimes counterproductive nature of civilian protection by the military means supporting the emerging suggestion in both the UN and Congolese circles that the international presence in the DRC needed to shift its focus from peacekeeping to peacebuilding. These two approaches, after all, had different logical underpinnings. Peacebuilding focuses on building institutions, reducing poverty, and addressing the deeper reasons why individuals resort to violence. Peacekeeping,

on the other hand, operates according to the logic of military deterrence and deals more with the effects than the causes of conflict.<sup>130</sup>

To protect civilians under immediate threat of physical violence has been part of MONUC's mandate from the start. Even so, thousands of civilians have been exposed to violence during and in the areas of MONUC's deployment. The causes of failure were rooted both in institutional realities (the nature of MONUC's mandate and the UN system, and of the DRC's responsibilities) and in the intricacies of the idea that peacekeepers should protect civilians from physical violence when they are under immediate threat. This demanding requirement was fairly new in the history of UN peacekeeping, as it only became prominent at the end of the 1990s; at around the same time that MONUC itself came into being (UNSG report (S/1999/957) of 8 September 1999).

The MONUC experience could arguably be deduced as meaning that the protection of civilians by peacekeepers was both complicated and controversial. This should therefore stimulate renewed thought about civilian protection as a peacekeeping task. The presence of an external force which promises to fight non-state armed groups may act as an incentive for violence, given that the attention thus accruing to the groups may improve their bargaining position vis-à-vis the provincial, central, or regional elites (Waal, 2009:99-113). The discourse on civilian protection often implies that these civilians are mainly women and children, even though civilian men are also vulnerable to various forms of violence in conflict situations. An important indicator of the protection challenges in the DRC was the consistently high level of human rights violations throughout the country, as well as the high level of internal displacements, which lies at the core of humanitarian needs.

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<sup>130</sup> Ingrid Samset, 2010, UN peacekeeping in the Congo: when is the job done? <http://www.cmi.no/publications/file/3717-un-peacekeeping-in-the-congo-when-is-the-job-done.pdf>, [accessed on 15 June 2012].

## **4.8 MOTIVATIONS OF THE UNSC RESOLUTION (S/RES/1925) OF 28 MAY 2010**

An analysis of the underpinning motivations of the UNSC Resolution (S/RES/1925) of 28 May 2010 was restricted by the UNSC to preserve the goal of peace already achieved and the urgency to consolidate this peace in a sustainable manner. The UN was committed to defending the integrity of the DRC and ensuring the protection of the civilians who lived there. Based on these objectives, the members of the UNSC were motivated to adopt this resolution (*Ibid* para. 12).

### **4.8.1 Affirmation of the principles guiding the work of the UNSC**

To answer the criticism raised by the DRC government about the UN presence in the DRC, which recalled the Soviet position in 1963 in relation to ONUC, the UNSC had to reaffirm its commitment to the sovereignty, territorial integrity and political independence of the DRC. In other words, the continued presence of the UN forces in the DRC did not constitute a violation of the country's sovereignty and independence. Instead, it worked for their protection and obliged the UN to assist the government of the DRC to increase its capacity in all areas of sovereignty.

This principle was firstly that the primary responsibility of the DRC government was to recover all the occupied territory in the country. Secondly, it was therefore up to government authorities to ensure the safety of the entire national territory and to protect civilians, as well as ensure respect for the rule of law, human rights and international humanitarian law.

However, these principles were conventionally responsibilities of the DRC government but were far from being achieved because of the absence of a professional army.<sup>131</sup> In addition, the presence of armed groups in the eastern part of the country in which the

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<sup>131</sup> Refers to all the preambles of all UN Resolutions on the DRC, which theoretically stipulated that the first responsibility for security lay with the DRC government [...] this sovereignty, in practice, was limited, despite the UN Charter emphasising the equality of all States throughout the world.

State authority was defeated rendered the government unable to fulfil its conventional duties as a sovereign State.

The UNSC, concerned about the long-term stabilisation of the DRC, felt the urgent need to implement a comprehensive reform of the security sector and an appropriate programme for achieving DDR and DDRRR. For members of the UNSC, the establishment of security conditions was an indispensable asset to sustainable economic development, and the involvement of international partners in all these areas was encouraged. This required stable security in the DRC, especially in North and South Kivu and the Orientale Provinces. The continued presence of armed militias, the weakness of state authority, the risk of renewed conflict with the return of refugees and displaced persons, and the continued illegal exploitation of natural resources were constant threats to stability in the DRC.

#### **4.8.2 Progress towards the achievement of the MONUC mandate**

The 31<sup>st</sup> report of the UNSG report (S/2010/164, para. 22, 23 and 24) stated that significant progress had been achieved in the DRC over the past decade. Landmark achievements included the official end of the conflict in 2003, the successful transition, which restored the territorial integrity of the country, the successful holding of democratic national elections in 2006, the on-going infrastructure development programme and improved relations between the country and its eastern neighbours.

In the east, positive developments in 2009, including the alliance between the DRC and Rwanda, the end of the CNDP rebellion, the launch of military operations against FDLR and LRA, and an increased rate of voluntary participation in the programme of DDRRR by FDLR elements, created unique possibilities for addressing the presence of armed groups in the eastern part of the country. However, significant challenges still remained in the country in relation to the continued presence of FDLR and LRA; large-scale humanitarian needs; and the persistence of serious human rights violations, including sexual and gender-based violence against civilians by FDLR, LRA and FARDC.

The UNSC recognised its urgent need to support the efforts of peace-building in order to strengthen and advance the country's stabilisation. This explains why the UNSC Resolution (S/RES/1925) of 28 May 2010 placed particular emphasis on the need for continued international support for the achievement of early recovery and to lay the foundation for sustainable development. Meanwhile, the exploitation of and illicit trade in natural resources continued, and its connection with the proliferation and trafficking of arms was one of the major factors fuelling and exacerbating conflicts in the country and throughout the Great Lakes region. This situation involved both internal and external aspects, which poisoned the environment and contributed to further destabilisation of the DRC.

To all UN member States, particularly those of the Great Lakes region, the UNSC recommended the full implementation of the measures specified in the UNSC Resolution (S/RES/1856, para. 3) of 22 December 2008. The UNSC had resolved to closely monitor how these measures were implemented and enforced by the States concerned. Unfortunately, the political influence that drove the UN measures did not allow the MONUC to closely monitor these measures. In addition, the UN was very complacent in respect of Rwanda which allowed Nkunda to again get access to military support from Rwanda with the knowledge of the UN.

While at the national level, as stated earlier, the UNSC expressed its support for the efforts of the Congolese government to draw up the final schedule of local elections in the general constitutional framework, in order to consolidate democracy and promote the rule of law. However, the humanitarian situation was of great concern to the members of the UNSC. According to them, the entire situation, including that of human rights in areas affected by armed conflict was disastrous. In this regard, the organ of the UN condemned, in particular, the targeted attacks against civilians, widespread sexual violence, recruitment and use of child soldiers, and extrajudicial executions.

The UNSC Resolution (S/RES/1925) of 28 May 2010 highlighted the obligation of the DRC government to act urgently, in cooperation with MONUC and other stakeholders,



to put an end to violations of human rights and international humanitarian law, fight against impunity, bring perpetrators to justice and provide victims with medical care, including humanitarian and other forms of aid. Thus, the UNSC welcomed the commitment by the DRC government to bring the perpetrators of atrocities committed in the country to justice. In this sense, the cooperation of the DRC authorities with the International Criminal Court was a source of satisfaction for the members of the UNSC. The following section analyses the principal decisions in this UNSC Resolution.

#### **4.9 PRINCIPLE ELEMENTS OF THE UNSC RESOLUTION (S/RES/1925) OF 28 MAY 2010**

Given the ineffectiveness of the MONUC mandate, the challenges of implementing it and the lack of consensus from the concerned stakeholders, it became a necessity to change the trajectory of the operation. In other words, given the compelling practical situation on the ground, the rules of the game had to be changed, as it were. The change had to be gazetted by the UN as it was the UN that initially brought in peacekeeping forces.

The content of this UNSC Resolution (S/RES/1925) revealed the important decisions taken by the UNSC regarding the presence of MONUC in the DRC. It was, for example, decided to extend the mandate of MONUC, as well as to achieve its transformation into MONUSCO. Other elements included the withdrawal of some peacekeepers, conditions for the modification of MONUSCO's mandate, and the need for cooperation and partnerships for sustainable peace and security in the DRC.

##### **4.9.1 Extension and reconfiguration of MONUC's mandate**

The first decision contained in this UNSC Resolution (S/RES/1925 para. 1), was in relation to the extension of the mandate of MONUC by a month, from 31 May to 30 June 2010. The end of the MONUC mandate was therefore fixed to almost the same date as that end of ONUC, which was 30 June 1964. However, unlike ONUC, the end of

the mandate of MONUC did not put an end to the presence of the UN mission in the DRC. The disengagement of ONUC took place in a context that was similar to that of MONUC, in that it was the ability of the State to support this process which prevented irrational decisions from being made.

The technical assessment mission agreed with the view expressed by the government that the reconfiguration of the mandate should reflect the new realities in the field, and should aim to build the capacity of national security and rule of law institutions to a level at which they could be sustained. The mission also believed that the reconfigured mandate of MONUC should reflect the on-going need to prioritise the protection of civilians. However, it should also recognise the different needs of the various regions within the country and give national institutions the space to operate independently where possible. This allowed MONUC to focus on critical tasks with a clear, strategic objective and exit strategy, while paying commensurate attention to peacebuilding needs. This would lay the foundation for the progressive transition to an UN presence that focused more on peacebuilding and sustainable development than on security, as local conditions allowed (UNSG report S/2010/164, para. 96).

Since the DRC was entering a new phase, according to the UNSC, the UN mission had to change its name to refocus its mandate in relation to the practical realities in the field. This resulted in MONUC being called “Mission of the United Nations for the Stability in the Democratic Republic of Congo”, abbreviated as “MONUSCO”, as from 1 July 2010. Its mandate would run from that date until 30 June 2011. In order to protect the civilians, judiciary and penitentiary, MONUSCO had a maximum number of 19,815 troops, 760 military observers, 391 police personnel and 1,050 members of established police units (UNSC Resolution (S/RES/1925 para. 2)). Therefore, there was not much change involved in the transformation of MONUC into MONUSCO. Rather, this transformation was a sign of a significant deterioration in the relationship between the main partners, who were supposed to share common goals. It can thus be inferred that the purported change in the mandate of MONUC was essentially a change in name alone. There is

very little evidence, if any at all, that points to a substantive change in the pragmatic implementation of MONUSCO.

#### **4.9.2 Withdrawal of UN peacekeepers**

The end of MONUC was accompanied by the UNSC's decision to withdraw a maximum number of 2000 military peacekeepers by 30 June 2010. This withdrawal had to be achieved in areas where security conditions were satisfactory (UNSC Resolution (S/RES/1925)).

The Eastern provinces of the country were affected by this withdrawal, to which the Equatorial Province could be added, although it is situated in the northern region of the DRC. This is why the UNSC authorised MONUSCO to concentrate its military forces in the east, while maintaining a reserve force capable of rapid deployment elsewhere in the country. This action by MONUSCO did not absolve the DRC government of its responsibility to ensure security, consolidate peace and promote development throughout the country. In this regard, the UNSC encouraged the DRC authorities to remain firmly committed to the protection of the civilian population, develop professional security forces, promote non-military solutions as an integral part of the overall-effort to reduce the threat posed by Congolese and foreign armed groups, and fully restore state authority in areas from which armed groups had withdrawn.

In order to avoid a heightened security risk as MONUC withdrew from the Kivus and Orientale Provinces. The government and the UN had to agree on the necessary capacities and strategic areas where the presence of trained FARDC troops was considered to be indispensable. In addition, there had to be arrangements for determining their readiness for deployment, which required consultation with the bilateral partners involved in their training. Their ability to protect civilians against violence, including sexual violence, and facilitate humanitarian access was critical factors in this regard. Concerning the establishment of State authority in areas from which the armed groups in North and South Kivu had withdrawn, the government and

the international community had already agreed, within the framework of the Stabilisation and Reconstruction Plan and the International Security and Stabilisation Support Strategy, on the areas where State administration should be established.

#### **4.9.3 Need for cooperation and partnerships**

Among the challenges faced by the UN and the DRC government were multiple forms of insecurity which required strong collaboration between all partners involved in the search for solutions. The attitude of the DRC government in brandishing the rope of sovereignty, gave the impression that the government wished to ignore the necessity for collaboration in order to make decisions that constrained the activities of other actors in the process of consolidating peace in the DRC.

Thus, the UNSC requested, through the UNSC Resolution (S/RES/1925, para. 7), the strengthening of exchanges and partnerships between the DRC government and the UN mission in the DRC. It therefore decided to pay constant attention to the strengthening of the Mission in terms of changes that were made by the UNSG and the DRC government. Assessments were sent to the UNSG in terms of progress towards achieving the objectives of MONUSCO. The UNSG was obliged to report regularly on these assessments to the UNSC, in order to enable the UNSC to make informed decisions and seize opportunities for reconfiguration.

Within the framework of the cooperation between the UN and the DRC government, the UNSC had paid tribute to the improvement of relations between the DRC and neighbouring countries, namely Uganda and Rwanda. In addition, the UNSC (UNSC Resolution S/RES/1925, para. 8) called upon all countries, particularly those of the Great Lakes region, to unite in their efforts to build sustainable peace in eastern DRC. It was interesting to note that this UNSC Resolution was innovative in naming those countries which played a crucial role in the deterioration of Kivu peace and giving MONUSCO a different mandate will be discussed in the following section.

## **4.10 MANDATE OF MONUSCO**

MONUSCO's mandate included the protection of the civilian population, as well as the stabilisation and consolidation of peace. This led the researcher to conduct an analysis on different concepts that laid the foundations and represented the innovations of the UNSC Resolution (S/RES/1925) of 28 May 2010. The following analysis is based on the understanding of those concepts of protecting civilians, stabilisation and consolidation of peace, which will determine the effectiveness of the UN action in the DRC.

### **4.10.1 Protection of civilians**

The protection of the civilian population constituted a range of different activities that contributed to making people feel safe in their homes or in the camps where they were living as refugees. In addition, this involved destroying the armed groups and working to ensure that perpetrators of crimes committed against civilians were brought to justice. Indeed, the protection of civilians had to be effective. It also included the protection of humanitarian personnel and those responsible for defending human rights, especially when civilians were under imminent threat of physical violence, in particular violence committed by any of the parties to the conflict. The protection of civilians entailed the protection of personnel, facilities, installations and equipment of the UNSC Resolution (S/RES/1925, para. 12, point a) and b)). Amnesty International's priority was the protection of civilian populations, access to humanitarian aid and opening up of humanitarian corridors throughout the province or conflict zone.<sup>132</sup> Support for actions that would lead the DRC government to protect civilians against violations of international humanitarian law and human rights<sup>133</sup> were included in the mission assigned to MONUSCO (UNSC Resolution (S/RES/1925, para. 12, c)).

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<sup>132</sup> Amnesty International sent a letter to this effect to the UNSC on December 16, 2008, with special reference to the issue of the embargo contained in the agenda, as well as the extension of the mandate of MONUC. Amnesty International also asked members of the UNSC to put pressure on the governments of the DRC and Rwanda to not provide support to armed groups, particularly the CNDP and FDLR.

<sup>133</sup> This protection included protection against all forms of sexual and gender violence, including the implementation of its policy of "zero tolerance" regarding breaches of discipline by members of the security forces, especially soldiers who had been newly integrated.

The imposition of peace included the application, with the authorisation of the UNSC, of coercive measures, including the use of military force to maintain or restore peace in situations where the existence of a threat to peace, breach of peace or act of aggression had been identified.<sup>134</sup> With an on-going armed conflict in the Kivus, MONUC had entered a phase of peace enforcement, in which its tasks were to assist the government to dismantle the FDLR, protect vulnerable communities against violence committed by the rebels, and establish the authority of the State and the rule of law.<sup>135</sup>

However, the UNSC Resolution (S/RES/1291, para. 7) decided to give MONUC the right to take the '*necessary measures*' in the areas of deployment of its infantry battalions and, as it deemed to be within the limits of its capabilities, to protect personnel, facilities and equipment of the UN, as well as those of the Joint Military Commission, which shared the same premises. It also had to ensure the security and freedom of its staff, and protect civilians under imminent threat of physical violence. MONUC had been authorised to use force, except in self-defence, in order to defend the civilian population (UNSC Resolution (S/RES/1856, para. 3) of 22 December 2008). MONUC's mandate was strengthened by UNSC Resolution (S/RES/1493, para. 16, 17, 22 and 25) of 14 July 2003, which authorised MONUC to assist in the DDRRR of foreign armed groups situated on DRC territory, especially Interahamwe. Indeed, the DDR had been present in the MONUC mandate since 2003.

According to UNSC Resolutions (S/RES/1856, para. 3, f) and (S/RSE/1906, para.5, b); para.19 and 28), UNSC was fully available to provide support, as long as such operations were planned together, and were conducted by FARDC battalions who were trained by MONUC. It was in this context that the military operations by the FARDC in

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<sup>134</sup> This mandate authorised MONUSCO to use all necessary means, within its capabilities and areas of deployment of its units, to deter any attempt to use force to threaten the political process and to ensure the protection of civilians under imminent threat of physical violence.

<sup>135</sup> These measures applied equally to the consolidation of peace.

the eastern part of the DRC, with the support of MONUC,<sup>136</sup> continued to rob foreign and Congolese armed groups of their fiefs and allowed the government to extend its control in areas which were previously inaccessible.

With regard to the judicial system of the DRC, MONUSCO, under the UNSC Resolution (S/RES/1925, para. 12, d)) was given the mission to support efforts at national and international levels, in order to ensure that perpetrators of violations of international humanitarian law and human rights were brought to justice. With regard to children, MONUSCO (S/RES/1925, para. 12, e)) had to work closely with the government to ensure the implementation of its commitment to prevent abuse against children, and to finalise the Action Plan for those children who had been demobilised from FARDC, as well as to ensure that there were no new recruitments, with the support of the Monitoring and Reporting Mechanism. Women occupied an important place in the mandate of MONUSCO, which, under the UNSC Resolution (S/RES/1925, para. f)), had to implement the strategy of the UN system for the protection of civilians in the DRC.

According to the UNSC Resolution (S/RES/1925, para. 12, g)), MONUSCO had to support the efforts of the government, together with international partners and neighbouring countries, in order to create conditions that would allow displaced persons and refugees to return home freely, safely and with dignity, or to be voluntarily reintegrated or resettled.

#### **4.10.2 Stabilisation and consolidation of peace**

The process of stabilisation and consolidation of peace in the DRC covered the security and judicial sectors. These areas required a profound reform, for which the role of the DRC government was a necessary, but insufficient requirement. The UNSC recommended to MONUC that it should support, in close cooperation with international partners, the efforts of the DRC authorities to strengthen and reform security institutions

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<sup>136</sup> For example, after the launch of the Uganda-DRC joint offensive against the army of the Lord's Resistance Army (LRA) in December 2008, the security of the Eastern Province had deteriorated significantly. According to MONUC military reports, 82 joint military operations were conducted against the LRA.

and the judiciary. A proposition supported by institutional liberalism that this study advances. The assistance provided by MONUC had to include the FARDC reform in order to strengthen the capacity of the military, including military justice and the military police. It also involved the harmonisation of activities, as well as the exchange of information and experiences (UNSC Resolution (S/RES/1925, para. 12, k)).

The stabilisation and consolidation of peace included measures targeted to reduce the risk of a resumption of conflict<sup>137</sup> and to lay the foundations for sustainable development, including through the strengthening of national capacities for conflict management at all levels (UNPKO, 2008: 19). This is also supported by the theory of institutional liberalism that is endorsed by this study. Activities related to the consolidation of peace were the structural causes of armed conflict through a comprehensive approach. With regard to the consolidation of peace in the DRC, the UNSG stated the following:

Consists, in a country coming out of a conflict, to restore the authority of the state, to pre-launch the dialogue between government and civil society, to enable it to regenerate and to establish the foundations of institutional economic and social development (UNSG report (S/2010/164, para. 75-78).

To consolidate the achievements of peace, the UNSC requested MONUSCO to support the efforts of the Congolese authorities to strengthen and reform security institutions and the judiciary (MONUSCO, 2010:7). Curiously, the situation in the DRC already had its own challenges, which had resulted in the UNSC reconfiguring the mandate of MONUC. This current mandate consisted of providing support to the government in some areas, particularly within the framework of the Stabilisation and Reconstruction Plan prepared by the government (STAREC) and the International Strategy to Support Security and Stability (ISSSS). In other words, institutional liberalism was affirmed by this move, as it was sought to instil values of closer cooperation, toleration, dialogue and therefore peace for all involved.

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<sup>137</sup> Officially, the armed conflict ended in 2003 with the signing of the Global and All Inclusive Agreement by the Congolese parties, and this agreement paved the way for the transition that would lead to elections in 2006. Therefore, theoretically speaking, operations began in 2003, although in reality, some actions related to the consolidation of peace took place well before the end of the conflict.



MONUC had kept in touch with all parts of the Transitional Government, and had played the role of facilitator for the three joint commissions. By this, one can observe the institutional liberal values at play in the progression of the resolution of the DRC conflict. Through the assistance of MONUC, the political and administrative unification of the country had already been achieved and a sense of national security began to be restored. This is a perfect example of the corollary of institutional liberalism.

The UNSC Resolution (S/RES/1925) focused on the strengthening of the authority of the State. The UNSC identified this as one of the key indicators to determine the beginning of the withdrawal of the mission. These indicators included, at least, the deployment of an effective police force and civil administration in areas from which armed groups had withdrawn, in order to avoid a security vacuum that could lead to institutional instability and volatility. The implementation of the national security forces and sustainable business, and the establishment of effective legal institutions were necessary steps towards the restoration of a sufficient level of security and the rule of law.

With regard to the reform of the security sector and other activities in the field of the rule of law, the MONUC mandate included the obligation to provide basic training in the short term to members and units of the integrated FARD brigades deployed to the east of the country, in order to continue to develop the capacity of the Congolese National Police and related agencies for enforcement in accordance with the standards and criteria of internationally recognised human rights. This can be interpreted as an affirmation of the institutional liberal theory that informs this study. As such, the MONUC mandate also included the use of force and criminal justice, advising the government on how to strengthen the capacity of the judicial and penal systems, and contributing to the efforts of the international community to assist the DRC government in the initial planning process for the reform of the security sector. It can be argued that meaningful reform can be brought about through constructive and sincere dialogue, a value endorsed by institutional liberalism.

In short, MONUC, in cooperation with other international partners, participated in strengthening the rule of law in the DRC by providing direct support to the reform of the judiciary and various legislative reforms. In terms of electoral assistance and the security of the electoral process, the MONUC mission was informed by two UNSC Resolutions (S/RES/1496) and (S/RES/1565). This task was carried out by the Electoral Division of MONUC, which was mandated to provide assistance to the Independent Electoral Commission.

#### **4.11 CONCLUSION**

Significant progress has been achieved in the DRC over the past decade. Landmark achievements include the end of the civil war, successful transition, which restored the territorial integrity of the country, the successful holding of democratic national elections in 2006, the on-going infrastructure development programme and improved relations between the country and its eastern neighbours.

The MONUC mandate to protect the civilian population achieved mixed results. Whilst there were significant successes, it was marked by the suffering and physical violence experienced by the civilian population, especially in the eastern DRC. Thus, the MONUC mandate to protect civilians was not very successful with regard to violations of human rights, physical violence, sexual violence and abuse of women and children by armed groups, opportunistic criminal elements and foreign nationals. With regard to the reform of the security sector, the MONUC mandate also achieved mixed results. However, with regard to the consolidation of peace, the MONUC mandate achieved great success.

Thus, an evaluation of the MONUC mandate in relation to the protection of civilians, consolidation of peace and reform of the security sector shows that it had contributed greatly in terms of stabilising the dramatic and disastrous human situation in the DRC. MONUSCO is likely to achieve the same mixed results as MONUC, due to the impact of political factors surrounding the UNSC's decisions.

MONUC did not have the means 'to provide broader protection' to civilians in general. If MONUC was to take the steps necessary to enable it to protect civilians under imminent threat of physical violence more effectively, it would have been necessary for the UNSC to consider adjusting the strength of MONUC, with a view to reconfiguring and re-equipping contingents considerably, in order to enable them to intervene more actively.

## **CHAPTER FIVE**

### **FINDINGS, RECOMMENDATIONS AND CONCLUSIONS**

#### **5.1 INTRODUCTION**

This chapter summarises the role of MONUC and presents findings, recommendations, and conclusions. It also suggests how best to achieve peace and security, and places emphasis on the protection of civilians according to the MONUC mandate. The chapter focuses on:

1. Providing an outcome of findings in the DRC war since 1998 to 2010;
2. Sketching the complexity of the DRC Conflict and the multiplicity of actors;
3. Outlining the reluctance of members of the UN to send troops to the DRC;
4. Referring to the problems encountered when collecting information as a result of the language system;
5. Making an assessment and criticism of the UN mission in the DRC.

The outline will be followed by the recommendations regarding the UN mission in the DRC; necessary conditions for a corrective approach to the MONUC mandate; requalification of the conflict; identification and condemnation of aggressors, and regional approach.

#### **5.2 FINDINGS**

The DRC was torn apart by the “African World War” between August 1998 and July 2003, after the Rwandese and Ugandans invaded the country in support of the rebel group RCD and MLC. These Rwandan and Ugandan armies wanted to occupy Kinshasa. The conflict was subsequently internationalised through the intervention of Angola, Chad, Namibia, Sudan and Zimbabwe at the request of Kinshasa. After the Lusaka Ceasefire Agreement was signed on 10 July 1999, fighting with heavy weapons once again took place in order to oppose the Rwandan and Ugandan armies in Kisangani in May 2000. However, most of the belligerent countries eventually withdrew from the DRC. In 2003, although they had officially withdrawn, Rwandan troops still

backed rebel groups in the North and South Kivus until 2011. In November 1999, the UNSC voted to send a UN observer mission to the DRC.

There were major obstacles facing the MONUC in carrying out its mandate. Firstly, the conflict was very complex and multifaceted. Secondly, the MONUC's mandate was too broad in a large country with relatively modest means. Thirdly, the UN member countries did not express enthusiasm to send troops to the DRC. Fourthly, System Information Mission (SIM) collection was severely handicapped by language problems. And fifthly, the actors in the crisis required a lot of MONUC support but were reluctant to collaborate openly with it. These factors affected the involvement of MONUC in the problematique of peace and security in the DRC.

### **5.2.1 Complexity of the DRC Conflict and the multiplicity of actors**

The DRC has been characterised for more than twenty years by political instability, and has since 1996 experienced two major wars. The first war led to the fall of the Mobutu regime in May 1997, and the takeover by the Alliance of Democratic Forces for the Liberation of Congo-Zaire under the leadership of Laurent Desiré Kabila. The second case was from August 1998 in which, the DRC government was engaged in a conflict with armed rebels of the RCD-Goma supported by Rwanda and the MLC supported by Uganda (Reyntjeans, 2009: 2-8). The security and territorial integrity of the DRC was threatened by this war, which forced the UN to intervene in order to maintain peace and security under Chapter VII of its Charter.

The causes and origins of the DRC conflict were numerous, including the following:

- Ethnic and communal rivalries, which arose during the colonial period, and have been highlighted since the declaration of independence;
- The matter of poor governance spanning 32 years of repressive policies and mismanagement of the Mobutu regime, which led to on-going frustration and resentment within the Congolese community;

- The Rwanda Genocide in 1994 which led to a multitude of Rwandan people in eastern DRC;
- The influence of conflicts between the DRC and its neighbouring countries Rwanda, Burundi and Uganda on the natural resources;

All these events resulted in the conflict of 1998, during which many Congolese and foreign rebels supported the motives and interests of stakeholders (Reyntjeans, 2009: 24). The armed conflict consisted of three dimensions: an international dimension, with fighting between the armies of foreign countries; a national dimension engaging the rebels against FARDC; and a local dimension, which involved fighting among ethnic groups.

At the time of the signing of the ceasefire in Lusaka, at least six countries and 10 foreign and Congolese armed groups were directly involved in the conflict. The UNSC Resolution on this conflict did not require an approach and complex strategy, nor could regional organisations or the UN clearly define the above dimensions of the DRC conflict at the time of the creation of MONUC. In any event, it appeared, soon after the first signs of MONUC's immobility, that such a strategy could be satisfied only through the military action of a peacekeeping force or even the imposition of peace.

## **5.2.2 Reluctance of members of the UN to send troops to the DRC**

ONUC, which was established in July 1960 to prevent civil war and ensure the territorial integrity and political independence of Congo, was able to mobilise, a year after its creation, 19,800 soldiers.<sup>138</sup> In comparison, in November 2000, one year after its creation, MONUC, acting under Chapter VII of the UN Charter, had failed to mobilise the number of soldiers requested. Only 224 unarmed military observers out of the 500 were provided, and from November 30, 1999 until May 2001, there were no armed military personnel out of the 5037 that were provided. The first armed MONUC troops arrived in June 2001 and it took until mid-2003 to achieve the quota of 5,000 soldiers.

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<sup>138</sup> <http://www.un.org/depts/DPKO/Missions/onucB.htm#Establishment>, [accessed on 28 October 2013].

At the beginning of 2000, the UN was involved in more than 15 peacekeeping missions throughout the world.<sup>139</sup> In light of this, one can see that the ability of member States to provide troops to peacekeeping countries was unable to address the growing demand. However, the complexity of the DRC crisis in 1998, as described above, and the ambiguity of the political and military strategy implemented to control it, raised fears in many countries providing troops that their soldiers would be placed on the frontline of the conflict.

The MONUC was still facing the same difficulty of finding a country that could make a contingent available. The powerlessness of MONUC also came from this difficulty. Countries that sent their troops were those in Asia and Africa, where the real problems of coordination, strategy and understanding weakened the actions of MONUC in the field. In order to resolve the problem of MONUC's weakness, only African countries contributed troops to the DRC conflict, as these countries, by virtue of being African possessed a better understanding of the problems experienced by countries on the continent.

### **5.2.3 Problems encountered when collecting information as a result of the language system**

The quality of information is a fundamental element for the success of any military operation in general and peacekeeping operations in particular. Monitoring of the ceasefire, respect for the embargo, especially the ability to detect conflicts that have not yet been properly identified and that can escalate into armed conflict, in order to take preventive measures, were based on collecting reliable information. MONUC used observer military teams (Milobs) as the primary instrument for collecting information and intelligence. These teams relied primarily on visual observation and verbal information gathered from local populations.

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<sup>139</sup> <http://www.un.org/en/peacekeeping/issues/military.shtml>, [accessed on 28 October 2013].

The weakness of this system greatly reduced the anticipatory capacity of MONUC, and was largely due to a linguistic handicap at the internal and external level.

At the internal level, the Milobs were composed of UN military personnel, of different nationalities, in response to the condition of the UN Charter on the mixing of cultures within the UN. However, this did not promote the internal communication necessary for the cohesion and effectiveness of the information system because of the different nationalities and languages. English was supposed to be the common language, but was in reality far from being mastered by all within the MONUC.

Externally, English was chosen as the working language of Milobs. Therefore, it was assumed that the majority of the members were English speaking. However, French is DRC's official language, and the Milobs thus had a limited ability to communicate with the local population. This lack of an effective communication strategy caused much concern among the civilian population, who believed that the Milobs were the solution to the attacks and threats by armed groups. In similar vein it was for example recognised that in addition to the powerful weapons used by Operation Artemis, French troops had a major advantage over the quota of Bangladesh. French troops were able to communicate directly with local populations in French without having to go through interpreters in the area of Bunia.

#### **5.2.4 Assessment and criticism**

The members of the peacekeeping mission were faced with difficulties on an unprecedented scale and complexity, which carried considerable risks. Their role was to support the political dialogue between the parties, assist governments to extend State authority, strengthen the protection of human rights and the rule of law. It also was to provide advice on the reform of the security sector, support the DDR, and protect civilians. In all the UNSC Resolutions, the UN peacekeeping missions were expected to work within the means at their disposal. However, MONUC had difficulty in exercising its mandate in its entirety.



#### **5.2.4.1 Evaluation of the MONUC's mandate**

The MONUC mandate was marked by the reactive rather than preventive management of the crisis. The policy of the international community was to react to catastrophic situations, instead of anticipating them. MONUC had adequate military resource abilities to protect civilians. The implementation of these methods through offensive action against recalcitrant armed groups was combined with diplomatic pressure by CIAT and regional and sub-regional organisations. This combination of efforts led to the crisis decreasing steadily in intensity from the beginning of 2005, and this resulted in the fragile peace that delayed the completion of the electoral process in late 2006.

Over the ten year period of MONUC's mandate, it achieved mixed results, especially during the first seven years between 1999 and 2006. During this period, it was true that the flashover experienced by the DRC from August 1998 to mid-2006 had decreased in intensity. However, many local conflicts continued to take place, claiming the lives of many civilians. The humanitarian and human rights situation was continually deteriorating. From 2005 to 2009, the results of peacekeeping operations had improved significantly because of a favourable political and security situation because the elections had been achieved. The problem of measuring the results of MONUC, according to Bernath and Edgerton (2003: 9-10), is the fact that the definitions of the "successes" and "failures" of the UN Mission depend on who you are... and, where you are located. However, in the UNSC Resolution (S/RES/1291) of 24 February 2000, the UNSC decided, acting under Chapter VII of the UN Charter, that MONUC could take the necessary measures in the areas of deployment of its infantry battalions.

It was nevertheless, evident that MONUC's primary responsibility and mandate was to protect those who were under imminent threat of physical violence, and especially in the eastern parts of the DRC, where MONUC was consequently deployed. To simplify matters and avoid getting bogged down in endless controversy, this assessment considered the fact that MONUC was involved as a major player in the peace process in the DRC. As such, MONUC was at least co-responsible for the successes and failures

of this process. Thus, in all UNSC resolutions, the MONUC's mandate was clearly that of achieving peace in the DRC, but the achievement of this mandate was inadequate in relation to the realities of the DRC conflict.

The powerlessness of MONUC's mandate was already seen in the Lusaka Ceasefire Agreement, when in its Chapter 8, it announced the creation of a UN peacekeeping force in collaboration with the then OAU. The MONUC mandate was concerned with peacekeeping and peace enforcement, and not the protection of the civilian population under physical imminent threat or to put an end to this aggression. However, in spite of its "Chapter VII" mandate, which allowed the utilisation of force, MONUC remained powerless against belligerents who signed agreements to which they did not comply, as well as many armed groups. However, it should be noted that the inability of MONUC did not mean total failure, as it also achieved some degree of success.

#### **5.2.4.2 Inadequate UN mandate and difficulty in implementing it**

MONUC was initially assigned traditional peacekeeping functions such as supervising the ceasefire, in a situation which was more evidence of an aggression. The following was stated in this regard: the "MONUC, led by UNSG Special Representative (S/RES/1279, para. 1 and 5) of 30 November 1999), in accordance with the UNSC Resolutions (S/RES/1258) and (S/RES/1273) of 6 August 1999 and 5 November 1999, establishes an alliance with the Joint Military Commission and provides technical assistance in the exercise of its functions under the ceasefire, including the investigation of violations of the ceasefire". However, the UN had been involved as guarantor of the agreements, alongside the OAU and SADC, in the Lusaka negotiations.

Therefore, to limit MONUC's mandate to the supervision and monitoring of the ceasefire by unarmed observers was inadequate. This conflict met all the criteria of a second generation peacekeeping mission. It should have then been given a proper mandate. However, it had to wait for the UNSC Resolution (S/RES/1291) of 24 February 2000, in order for the mandate of MONUC to be extended by providing a strong contingent of

5,537 military personnel and 500 observers. Thus, through the UNSC Resolutions (S/RES/1355) and (S/RES/1376) of 15 June 2001 and 9 November 2001, MONUC's mandate extended DDRRR to volunteer soldiers. Despite the expansion of its mandate, MONUC always struggled to work effectively because of the deterioration of the situation in the field. The UN, however, could use force to restore peace, and chose to entrust the European Artemis force with the mandate to deal militarily with belligerents in the Bunia area, in order to restore calm. The success of the Artemis operation allowed the UN to realise that the use of force to protect civilians was both necessary and possible.

The UNSC as a result, amplified the powers of MONUC through the UNSC Resolution (S/RES/1493) of 28 July 2003, authorising MONUC, pursuant to Chapter VII, to “use all necessary means to fulfil its mandate in the district of Ituri and, to the extent it deems within its capabilities, in North and South Kivu”. The UNSC increased the MONUC's powerbase to 23,900 men, but this did not improve MONUC's capacity. However, in the field, massive violations of human rights, and massacres of civilians, had multiplied, particularly in Ituri, and new armed groups, who were not signatories to the Lusaka Agreement, began to emerge.

The evolution of MONUC's mandate reinforced the firm and offensive approach adopted in October 2004. The UNSC Resolution (S/RES/1592, para. 7) of 30 March 2005 stressed that MONUC was authorised to “use all necessary means”, within its capabilities and areas of deployment of its units. In this regard, the UNSC transformed the UN peacekeeping mandate into an UN enforcement mandate in order to discourage any attempt to use force to threaten the political process on the part of any armed group. These armed groups were either foreign or Congolese, in particular the ex-FAR and Interahamwe. It also stressed that MONUC could “use tactics of encirclement and research to prevent attacks against civilians and disrupt the military capability of illegal armed groups that continue to use violence” in the eastern parts of the DRC.

The concept of operations and the rules of engagement were carefully reviewed by the UNDPKO and MONUC, and were revised to meet the requirements of the robust mandate of MONUC, as outlined in the UNSC Resolution (S/RES/1856) of 22 December 2008. The revised concept of operations provided the military component of MONUC with clear strategic objectives and outcomes. While highlighting the priority of protecting civilians, the concept of operations made it clear that the main area of focus was in the eastern DRC. As in 2006 and 2007, the second half of 2008 saw renewed fighting in the DRC between FARDC and the Mai-Mai, FDLR and the CNDP. The only difference was that in 2008, the CNDP, under Laurent Nkunda, not only defeated the FARDC, but had the understanding that it could, when it saw fit, and despite UN peacekeepers and the mandate of Chapter VII, seize Goma, the capital of North Kivu.

In conclusion, the UNSC gave MONUC an inadequate mandate, under “Chapter VII” of the UN Charter, which made the work of MONUC less effective. It should however be emphasised that the mandate of MONUC was a long process. The UNSC tried several times to add a new function to MONUC or increase its workforce. The terms should have been more responsive and clear from the beginning of the UN intervention. Furthermore, the hybrid nature of the MONUC’s peacekeeping mandate combined both traditional and modern peacekeeping missions, and this made it more difficult to achieve success in fulfilling the mandate, since the people responsible for applying the mandate did not know what to do. Nevertheless, the report of former UNSG Boutros Boutros Ghali (1992: 822-823), in “An Agenda for Peace”, expressed the hope that the UN peacekeeping mandate was “clear and achievable”. This recommendation was not complied with in the DRC for at least 10 years after the UN peacekeeping mandate, as it continued to be vague and difficult to implement, leading the UN mission to achieve mixed success.

### 5.2.4.3 Mixed results of MONUC's mandate

The results of the MONUC mandate in the DRC conflict were quite mixed, ranging from extreme success to failure. As part of its mandate, MONUC was supposed to effectively protect civilians plagued by physical violence and secure areas of instability. However, in some cases, MONUC remained powerless, as confirmed by the Reuters news agency of 10 December 2012, which stated that “no piece of land in eastern DRC escapes insecurity”. Villages were besieged and their inhabitants burned alive. In the town of Nindja, 15 people were killed with machetes, and 171 women were raped. According to Human Rights Watch, sexual violence<sup>140</sup> against girls and women was common. In Walungu, the UN identified “177 executions and 320 rapes”. Faced with the ubiquity of uncertainty, marked by unprecedented violence, there was reason to wonder where MONUC was, or rather “Miss Monique”<sup>141</sup>, as it was called in the DRC, because of its slow response in rescuing civilians.

In addition to the failure to protect civilians, MONUC was also not able to disarm armed groups, as recommended by the Lusaka Ceasefire Agreement. The FDLR, who constituted the greatest threat to peace, was not completely disarmed and continued to plague eastern DRC. The Comprehensive Review found, among other things, that peacekeepers had enticed desperate women and children to engage in sexual acts for a pittance of money or a small piece of food, sometimes giving them money or food after raping them in order to make the intercourse appear consensual, and that these crimes were widespread and on-going (UNGA Resolution (A/59/710, para. 8) of 24 March 2005). In retaliation for Bangladeshis killing nine peacekeeping soldiers in Ituri, 50 FNI militiamen were killed, as well as innocent children and women who they were supposed to protect.

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<sup>140</sup> UN News Center, 2005. Peacekeeper's sexual abuse of local girls continuing in DRC, UN finds. <http://www.un.org/apps/news/story.asp?NewsID=12990&Cr=democratic&Cr1=congo>, [accessed on 12 January 2012].

<sup>141</sup> Monique was the nickname that the Congolese gave to MONUC because of its weakness to protect civilian population.

## 5.3 RECOMMENDATIONS

### 5.3.1 Necessary conditions

The crisis in the Great Lakes region has involved a multitude of local, national, regional and international actors with various motivations and interests. The armed conflict had the following three dimensions:

- The regional and international dimensions, which involved fighting between the official armies of seven foreign countries, including those of the African Great Lakes, Central Africa, Southern Africa and the international community (UN, AU and EU). This dimension seemed to be out-dated since the cease-fire in Lusaka.
- The national dimension, in which rebel forces were engaged in fighting against government forces. This dimension was relevant and continues to benefit several people and foreign companies. The rebellions never ended, despite the presence of MONUC over 10 years later. Eastern DRC has become the battlefield of rebellion because of the natural mineral resources.
- The local dimension, which involved fighting between ethnic groups, Mai-Mai militias and rebels fighting against government forces. This dimension of the conflict was a time-bomb that the UNSC had neglected in the drawing up of the MONUC mandate. This dimension has caused much suffering to the civilian population. The aggressors used this strategy to divert the attention of the UNSC, with the influence of multinational companies.

The corrective approach of the MONUC mandate should have taken into account the three dimensions of the conflict and do a more in-depth analysis of these actors, by clearly identifying them in a UN resolution and in each level of responsibility and importance in this conflict. In truth, the conflict in the Great Lakes region was the result of the proliferation of armed groups, and their persistence does not appear to be by chance or circumstance. The various interests of Western countries, African industries and multinational corporations are hidden behind the persistence of armed groups in the region.

### 5.3.2 Requalification of the conflict

The requalification of the DRC conflict, the identification and punishment of aggressors, and revision of the MONUC mandate under Chapter VII of UN Charter would be the strong answer to protect the civilian population. To achieve this, MONUC should have adopted a corrective approach that took into account all of the above elements, which the UNSC neglected during the elaboration of the mandate of MONUC. This could potentially have had a direct impact on conflict resolution.

The DRC conflict was an aggression or regional aggression led by Rwanda and Uganda against the DRC sovereignty because of an uninvited presence in the country. It can also be asserted that requalification was based on the following observations and indicators:

- The war in the DRC was not intended for the seizure of power (which has served as an accompanying effect) let alone securing the borders of neighbouring countries. Instead, it lent itself to a war for the reconstruction of political space and predation in favour of the triple alliance between Uganda, Rwanda and Burundi;
- Testimonies were given by people in the occupied territories and, through various national and international media, by all Congolese who had disassociated themselves from the RCD and MLC said that this war was not an “armed rebellion supported by Rwanda and Uganda”. But an occupation war of the DRC by Rwanda and Uganda (UN Special Reporter Garret (E/CN.4/1999/31, para. 14).<sup>142</sup>
- Three cases of heavy fighting between the Rwandan and Ugandan government army in Kisangani (May, August 1999 and June 2000) in Congolese territory showed a hegemonic border struggle between Rwanda and Uganda. The UNSC should immediately have reclassified the DRC conflict, adopting a clear UNSC Resolution that could state clearly that the conflict in the DRC was an aggression

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<sup>142</sup> The UN Special Reporter Garret spoke about the internal armed conflict with the participation of foreign forces. Given the influences within the UNSC, the report of Special Reporter Garret was changed with regard to certain issues, which clearly demonstrated that the DRC was assaulted, as claimed loud and clear by its authorities.

of its neighbouring countries. Hence, the MONUC mandate would also be affected by this UNSC Resolution.

Therefore, under the UNSC Resolution (S/RES/3314) of 14 December 1994, at the UNGA, it was stated that the DRC was a victim of foreign aggression.<sup>143</sup> This was the evidence to call upon the UN to reconsider its attitude on the situation in the country because the UNSC Resolution was made to be applied. In addition, this requalification should, under the theory of a contrary act, have entailed ipso facto the revision of the MONUC mandate, in order to focus on the problematique of peace and security in the DRC. MONUC should have given priority to achieving its mission of maintaining peace and security in the Great Lakes region. The requalification of the DRC conflict would be important in the sense that it took into account all stakeholders and correctly interpreted the conflict. It should have allowed MONUC to be more active from the beginning of the deployment of the units in the field of peacekeeping operations.

### **5.3.3 Identification and condemnation of aggressors**

Requalification of the conflict should potentially have resulted in fairness, safeguarding of peace and security in the Great Lakes region, and the banning of the aggressor States, Uganda and Rwanda, by the international community. Defining the role of the UN in the 21<sup>st</sup> century, UNSG Kofi Annan (Annan, 2000:12), reminded the people of the UN that “the provisions of the Charter are based on the assumption that external aggression, in which one state attacks another, constitutes the most serious threat to relations between States.” The UNSC Resolution (S/RES/1304) of 16 June 2000 recognised that “Uganda and Rwanda have violated the sovereignty and territorial integrity of the DRC.” Although both aggressor States were specifically named, there should have been a formal condemnation by the UNSC by responding to international justice.

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<sup>143</sup> According to the UNSC Resolution (S/RES/3314) of 14 December 1994, “Aggression is the use of armed force against the sovereignty, territorial integrity or political independence of any State by another State”. On 14 December 1974, the UN General Assembly adopted, by consensus, UNSC Resolution (S/RES/3314), incorporating the definition of aggression which had been adopted by the fourth special committee.



Meanwhile, the UNSC should have, in accordance with the Convention of 9 December 1948, in order to correct its mistakes, announced the establishment of an international commission of inquiry into war crimes and crimes against humanity, including genocide, which had been declared in the UNSC Resolution (S/RES/1304, para. 13 and 14), and against the illegal exploitation of natural resources and other wealth of the DRC by the aggressors (S/PRST/2000/20). The UNSC requested, on 6 June 2000, the UNSG to appoint, for a period of six months, a group of experts to examine the issue. With regards to the massacres of Rwanda; to paraphrase Mr Boutros Boutros-Ghali, the humanitarian situation in the DRC was the shame of the UN.

Given the involvement of multinational companies and their influence on the UNSC, as well as the influence of powerful permanent members of the UNSC, there would always be an obstruction somewhere to recognise the involvement of their businesses. Despite the various reports of UN experts that have been quoted above, as well as reports of NGOs such as HRW, Amnesty International, Global Witness among others, and those of the Congolese government which clearly identified the aggressors but the UNSC remained silent. The powerful permanent members, such as the US and its allies, would have done anything to delay or prevent the passing of a UNSC Resolution clearly condemning the aggressors and multinational companies that were involved in the DRC conflict. The identification and condemnation of aggressors would have allowed MONUC to have a clearer and more precise mandate for its mission of peacekeeping and security in the DRC, because the problems had already been identified.

#### **5.3.4 Regional approach**

There was therefore no progress or positive development that would justify a more optimistic view. Recent events, as well as the development of relations between the countries of the region, have shown some progress. The restoration of normal diplomatic relations through mutual accreditation of ambassadors was an important first step in this regard. This approach was extended to the regional level through the

effective re-establishment of the Economic Community of Great Lakes Countries (CEPGL).

A positive outcome is that the countries of the Great Lakes region agreed to permanently open their borders from 1 September 2009. In this regard, if armed violence remains a problem in the eastern DRC, it was more as a result of interventions by neighbouring States. The prospect of more open borders, however, may not facilitate the state control of natural resource exports. These developments demonstrate that only a regional approach will ensure real progress in terms of peace and reconstruction.

Peacekeeping missions have traditionally had a diverse makeup, with costs and contributions in relation to personnel being divided between as many States as were willing to participate. The logistical and organisational problems arising as a result have been outlined above, and a leaner, less diversified force could perhaps accomplish, in less time and with less effort, what the current MONUC has taken years to achieve.

On the other hand, the involvement of regional organisations such as the African Union (AU), the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC) do not necessarily bring greater stability to the region. Lacking resources, experience, training and impartiality (because of shared ethnic groups), these organisations – perhaps unlike their Western counterparts – do not yet have the capabilities necessary to engage in long-term, independent peacekeeping. The absence of common values among member States, reluctance amongst SADC States to surrender a measure of sovereignty, and the overall weakness of many of the member States were some of the fundamental problems.

Added to this was the fact that the rebels and militias were not the only parties guilty of misconduct. For example, corrupt officials in Kinshasa siphoned off funds allocated to the military, leaving soldiers without pay. As a result, Autesserre (2007: 426-430) wrote “was that the soldiers' commanders, who did not have the resources to remunerate their troops adequately or provide them with basic supplies and to encourage them to make

a living from the local population". The rural population could not always tell the difference between militias and Blue Helmet peacekeepers from their uniforms alone. In such an environment, peacekeeping soldiers of African descent dispatched to high-risk areas were often mistrusted and feared by the locals. This lack of trust in the armed forces, combined with the absence of law enforcement, undermined the very purposes of peacekeeping and peace-building. The DRC was a special case, and one to which the African Union, SADC and ECOWAS troops may no longer be the best suited.

MONUC has made enough mistakes to highlight the Congolese position. However, it is difficult to imagine how the country would be without this UN force, which has acted as a deterrent against adventurous Congolese politicians from all walks of life, acting to safeguard the existence and survival of the country, and to ensure the smooth running of the electoral process. Unfortunately, MONUC, despite having experienced significant losses (more than 150 deaths in the ranks of MONUC), also gained a bad reputation because of the excesses of some of its men. It was mostly confined to a support role, and was often unable to carry out disarmament or neutralise rebel groups fighting against the Congolese army.

## **5.4 GENERAL CONCLUSION**

This chapter provides a summation of the observations, arguments and the conclusions of the study. In addition, some propositions on the improvements that could have been done to the mandate of MONUC as a UN mission in the DRC are suggested. After several large political and humanitarian crises and rehearsals, wars have occurred in the DRC, starting on 2 August 1998, which continued at the time of this study. Massive violations of human rights, among which were the massacres of civilian populations by rebel groups in Ituri in 2003, the Bukavu crisis in 2004 and, recently, the actions of renegade Laurent Nkunda, which resulted in the displacement of hundreds of thousands of people. During the course of 2008, MONUC underwent yet another major crisis in the Kivus, with Nkunda's troops extending his influence in the province by force, threatening to take Goma, the capital of the North Kivu Province. The MONUC mandate was not to make war but was based on a peace agreement. This peace agreement was challenged in a violent way and it was up to the parties in the conflict to resolve this problem. In this logic when the war broke out, the UN's role ended. These words clearly reflect the absurdity of the UN mandates and their interpretation. The protection of civilians figured prominently in the UNSC Resolutions, but there was obviously not a declaration of war. How could they protect civilian victims of violence without confronting potential aggressors? This was the real question that peacekeepers should have been asking and trying to answer. Without pretending to exhaust the topic of this study, especially as it is a sensitive topic in the DRC, the researcher hopes that this study has been able to answer the selected questions and has reflected the efforts made towards its realisation.

As mentioned above, MONUC was established on 6 August 1999, pursuant to UNSC Resolution (S/RES/1258), as an observer mission for monitoring the implementation of the Lusaka Ceasefire Agreement between belligerent groups. Following the signing of the All-Inclusive Peace Accord in 2002, the nature of the mission changed and MONUC became a multidimensional peacekeeping operation with a robust mandate. For multinational missions such as MONUC and Operation Artemis, political and military

leaders need to provide conceptual clarity regarding how the operation should approach the problematique of peace and security in order to protect civilian populations. Ideally, this strategy should be consistently understood throughout the leadership of the mission by the troop contingents and within the UNSC. After struggling for years, MONUC had by 2005 a clearer concept of its mandate. The mission operated more in accordance with its “Chapter VII” mandate. Peacekeepers conducted cordon-and search operations and worked with local populations to identify barriers to peace. MONUC leadership began to use the goal of protection as an organising tool to integrate civilian and military roles. A new mission strategy attempted to address civilian vulnerability across the board, from human rights monitoring and reporting to the provision of humanitarian space and coercive physical protection. No single concept defined the mission’s civilian protection efforts - rather, the mission embraced multiple ideas and strategies.

However, the biggest question that remains is whether or not sustainable peace and security, which are both important and complex, will be achieved before the final completion of the UN mission in the DRC? At the time of conducting this study, the transformation from MONUC to MONUSCO had not resolved the weaknesses of the UN mission in the DRC. The UN mission in the DRC was aimed at establishing sustainable peace, especially in the eastern DRC and, given some remarkable progress in the field of peacekeeping operations, it seemed necessary for the UN to review its mandate in accordance with the objectives of the stabilisation and reconstruction of the country. This affected the time-frame of its mission in the DRC.

The assessment of MONUC’s performance is a delicate task, as one can expect views to differ in this regard, depending on people’s situations and positions. As far as ordinary Congolese were concerned, MONUC failed, especially with regard to its protection mandate. The mission was unable to protect them against violence perpetrated by FARDC rogue elements and Mai-Mai militias, or to put an end to foreign armed groups such as the FDLR and the LRA. For the UN and optimistic observers, MONUC represents a success story, proof of the international community’s readiness to make an immeasurable amount of resources available, as well as its commitment to

state-building in fragile societies and the preservation of international peace and security.

Taking the predicaments of the DRC prior to the deployment of the UN mission into account, there was no doubt that MONUC achieved much, including preserving the independence and territorial integrity of the DRC. This was achieved especially when considering that this was achieved despite inadequate resources and a lack of genuine commitment on the part of the presumed beneficiaries of the process, namely the national and regional parties involved in the crisis. On the other hand, given the tasks at hand and the scope of its mandate, MONUC could have achieved more.

The most important barrier to MONUC's greater success was that the politically designed mandate was not aligned with the operational situation in the DRC. DPKO measured the success of MONUC in terms of the warring parties' adherence to the ceasefire agreement, which at the time of this study had become irrelevant. Although at the time of this study there was no fighting along the original ceasefire line, there was fighting throughout the eastern part of the country among groups that were not part of the Lusaka Ceasefire Agreement. In addition, the mandate called for a Chapter VII protection response capability, but the political wording of this part of the mandate made agreement based on its meaning almost impossible. Within the context of the political realities of the world, the UNSC and DPKO must clarify the mandate in light of the military and security situation that currently exists in the DRC.

MONUC can also accomplish more within the framework of its current mandate and resources than it accomplished under its previous mandate. MONUC's implementation of its humanitarian assistance and human rights mandate had, until recently, been weak and unimaginative. Recent personnel changes and additions at MONUC Headquarters have resulted in many positive changes. The problem, again, is a politically acceptable mandate that was out of sync with operational realities. The mandate calls for specific activities, but these activities were not properly resourced. If the political leadership was

serious about this part of the mandate, they should have provided adequate resources for it.

With regard to the main purpose of this study, the researcher concludes that the MONUC mandate was incorrectly defined because the United Nations misinterpreted the DRC conflict as a civil war, rather than as a regional conflict and an aggression. The MONUC mandate does not meet the peace and security problematique in the DRC, which is an internal conflict and aggression, which is why the UNSC was still, at the time of this study, updating the MONUC mandate according to the realities in the field of peacekeeping operations in the DRC. All UN missions and the realities of conflicts are different. This is why this study suggests a systematic reform of the UNSC, in order to put an end to the influence and interests of donor nations, as well as those of the five permanent members of the UNSC. Otherwise, the UN will be at risk of failure, just like the League of Nations.

MONUC was mandated to protect civilians from physical violence and to restore peace and security in the DRC. The mandate in this regard has become even stronger. While previous mandates seemed to have limited this task to violence committed by foreign or Congolese armed groups, the UNSC Resolution (S/RES/1856) of 22 December 2008 enabled the Mission to take action to protect civilians from physical violence “by any party”. There will be no sustainable peace in the DRC without security sector reform. Progress in this area has been slow. MONUC should intensify its efforts to this end, and the international community should better coordinate its initiatives in order to support the government’s implementation of SSR.

The MONUC mandate was clear: missions authorised by the UNSC to protect civilians need to understand the level of force that can be used to achieve their goals, and whether or not they were coercive protection operations. As demonstrated in the DRC, mission leaders must make tough, inevitable choices about protecting civilians in hostile environments. The strategy of protection should be based on an understanding of the causes of civilian insecurity and the best remedy for the environment. Traditional

strategies of supporting humanitarian space and conducting peacekeeping operations can fall far short of protecting civilians, such as in the DRC, where irregular armed groups have operated with total impunity. The UNSC Resolution (S/RES/1925) of 28 May 2010 commended the valuable contribution that the MONUC has made to the recovery of the DRC from conflict and to the improvement of the country's peace and security. Protecting civilians may require destroying the capacity of armed groups to commit violence, and possibly using military force to defeat or disarm them. Such actions risk a counter insurgency-type response if the armed groups refuse to stand down. A well-led UN force could adopt this approach, if UN member States are willing to provide the capacity and personnel for the operation.

Finally, as recognised in UN mandates, the role of peacekeeping operations in providing protection was always balanced by their relationship with the sovereign country in which they operated. In most UN operations, the government maintains primary responsibility for the welfare of its people. When a State is on the verge of failure or recovering from a conflict, such as that in the DRC, the distinction between its responsibilities and those of a UN peacekeeping operation become blurred. The UN must continuously strike a balance between taking responsibility for protecting the Congolese populace, offering support to the political process, and cooperating with the government.

Given the above, The UNSG and UNSC, who support peacekeeping missions, must be aware that such missions are in urgent need of conceptual clarity and better tools for preparing and supporting those sent to restore peace. MONUC's experience in the DRC has shown that these issues need to be addressed both in the country and in any future peacekeeping missions or interventions that are aimed at offering protection. This study has contributed to an examination of the performance of MONUC, and offered some suggestions on how it could be bettered.



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## **APPENDIX A**

### **UNITED NATIONS DOCUMENTS**

#### **A. RESOLUTIONS OF THE SECURITY COUNCIL**

##### **a. 2011**

1. UNSC Resolution (S/RES/1973) of 17 March 2011
2. UNSC Resolution (S/RES/1975) of 30 March 2011

##### **b. 2010**

1. UNSC Resolution (S/RES/1925) of 28 May 2010

##### **c. 2009**

1. UNSC Resolution (S/RES/1906) of 23 December 2009
2. UNSC Resolution (S/RES/1896) of 30 November 2009

##### **d. 2008**

1. UNSC Resolution (S/RES/1857) of 22 December 2008
2. UNSC Resolution (S/RES/1856) of 22 December 2008
3. UNSC Resolution (S/RES/1843) of 20 November 2008
4. UNSC Resolution (S/RES/1820) of 19 June 2008
5. UNSC Resolution (S/RES/1807) of 31 March 2008
6. UNSC Resolution (S/RES/1804) of 13 March 2008
7. UNSC Resolution (S/RES/1797) of 30 January 2008

##### **e. 2007**

1. UNSC Resolution (S/RES/1794) of 21 December 2007
2. UNSC Resolution (S/RES/1771) of 10 August 2007
3. UNSC Resolution (S/RES/1768) of 31 July 2007
4. UNSC Resolution (S/RES/1756) of 15 May 2007

5. UNSC Resolution (S/RES/1751) of 13 April 2007
6. UNSC Resolution (S/RES/1742) of 15 February 2007

**f. 2006**

1. UNSC Resolution (S/RES/1736) of 22 December 2006
2. UNSC Resolution (S/RES/1711) of 29 September 2006
3. UNSC Resolution (S/RES/1698) of 31 July 2006
4. UNSC Resolution (S/RES/1693) of 30 June 2006
5. UNSC Resolution (S/RES/1692) of 30 June 2006
6. UNSC Resolution (S/RES/1671) of 25 April 2006
7. UNSC Resolution (S/RES/1669) of 10 April 2006
8. UNSC Resolution (S/RES/1654) of 31 January 2006

**g. 2005**

1. UNSC Resolution (S/RES/1649) of 21 December 2005
2. UNSC Resolution (S/RES/1635) of 28 October 2005
3. UNGA Resolution (A/RES/60/1) of 24 October 2005
4. UNSC Resolution (S/RES/1628) of 30 September 2005
5. UNSC Resolution (S/RES/1621) of 6 September 2005
6. UNSC Resolution (S/RES/16165) of 29 July 2005
7. UNSC Resolution (S/RES/1596) of 18 April 2005
8. UNSC Resolution (S/RES/1592) of 30 March 2005

**h. 2004**

1. UNSC Resolution (S/RES/1565) of 1 October 2004
2. UNSC Resolution (S/RES/1555) of 29 July 2004
3. UNSC Resolution (S/RES/1552) of 27 July 2004
4. UNSC Resolution (S/RES/1533) of 12 March 2004
5. UNSC Resolution (S/RES/1522) of 15 January 2004

**i. 2003**

1. UNSC Resolution (S/RES/1501) of 26 August 2003
2. UNSC Resolution (S/RES/1493) of 28 July 2003
3. UNSC Resolution (S/RES/1489) of 26 June 2003
4. UNSC Resolution (S/RES/1484) of 30 May 2003
5. UNSC Resolution (S/RES/1468) of 20 March 2003
6. UNSC Resolution (S/RES/1457) of 24 January 2003

**j. 2002**

1. UNSC Resolution (S/RES/1445) of 4 December 2002
2. UNSC Resolution (S/RES/1417) of 14 June 2002
3. UNSC Resolution (S/RES/1399) of 19 March 2002

**k. 2001**

1. UNSC Resolution (S/RES/1376) of 9 November 2001
2. UNSC Resolution (S/RES/1355) of 15 June 2001
3. UNSC Resolution (S/RES/1341) of 22 February 2001

**l. 2000**

1. UNSC Resolution (S/RES/1332) of 14 December 2000
2. UNSC Resolution (S/RES/1323) of 13 October 2000
3. UNSC Resolution (S/RES/1316) of 23 August 2000
4. UNSC Resolution (S/RES/1304) of 16 June 2000
5. UNSC Resolution (S/RES/1291) of 24 February 2000

**m. 1999**

1. UNSC Resolution (S/RES/1279) of 30 November 1999
2. UNSC Resolution (S/RES/1273) of 5 November 1999
3. UNSC Resolution (S/RES/1258) of 6 August 1999
4. Lusaka Ceasefire Agreement (S/1999/815) of 23 July 1999
5. UNSC Resolution (S/RES/1234) of 9 April 1999



**n. 1960 and 19961**

1. UNSC Resolution (S/RES/143) of 14 July 1960
2. UNSC Resolution A (S/RES/161) of 21 February 1961
3. UNSC Resolution (S/RES/169) of 24 November 1961

**B. REPORTS OF THE GENERAL SECRETARY**

**a. 2010**

1. UNSG Report (S/2010/164) of 30 March 2010
2. UNSG Report (S/2010/288) of 30 June 2010

**b. 2009**

1. UNSG Report (S/2009/623) of 4 December 2009
2. UNSG Report (S/2009/472) of 18 September 2009
3. UNSG Report (S/2009/335) of 30 June 2009
4. UNSG Report (S/2009/160) of 27 March 2009

**c. 2008**

1. UNSG Report (S/2008/728) of 21 November 2008
2. UNSG Report (S/2008/693) of 10 November 2008
3. UNSG Report (S/2008/433) of 3 July 2008
4. UNSG Report (S/2008/218) of 2 April 2008

**d. 2007**

1. UNSG Report (S/2007/671) of 14 November 2007
2. UNSG Report (S/2007/156) of 20 March 2007
3. UNSG Report (S/2007/68) of 8 February 2007

**e. 2006**

1. UNSG Report (S/2006/7590) of 21 September 2006
2. UNSG Report (S/2006/390) of 13 June 2006
3. UNSG Report (S/2006/389) of 13 June 2006

4. UNSG Report (S/2006/310) of 22 March 2006

**f. 2005**

1. UNSG Report (S/2005/832) of 28 December 2005
2. UNSG Report (S/2005/603) of 26 September 2005
3. UNSG Report (S/2005/506) of 2 August 2005
4. UNSG Report (S/2005/320/add.1) of 2 July 2005
5. UNSG Report (S/2005/320) of 26 May 2005
6. UNSG Report (S/2005/167) of 15 March 2005

**g. 2004**

1. UNSG Report (S/2004/1034) of 31 December 2004
2. UNSG Report (S/2004/650) of 16 August 2004
3. UNSG Report (S/2004/251) of 25 March 2004

**h. 2003**

1. UNSG Report (S/2003/1098) of 17 November 2003
2. UNSG Report (S/2003/566) of 27 May 2003
3. UNSG Report (S/2003/211) of 21 February 2003

**i. 2002**

1. UNSG Report (S/2002/1180) of 18 October 2002
2. UNSG Report (S/2002/1005) of 10 September 2002
3. UNSG Report (S/2002/621) of 5 June 2002
4. UNSG Report (S/2002/169) of 15 February 2002

**j. 2001**

1. UNSG Report (S/2001/970) of 16 October 2001
2. UNSG Report (S/2001/572) of 7 June 2001
3. UNSG Report (S/2001/373) of 17 April 2001
4. UNSG Report (S/2001/357) of 12 April 2001

5. UNSG Report (S/2001/128) of 12 February 2001

**k. 2000**

1. UNSG Report (S/2000/1156) of 6 December 2000
2. UNSG Report (S/2000/888) of 21 September 2000
3. UNSG Report (S/2002/914) of 9 August 2002
4. UNSG Report (S/2000/566) of 12 June 2000
5. UNSG Report (S/2000/330) of 18 April 2000
6. UNSG Report (S/2000/30) of 17 January 2000

**l. 1999**

1. UNSG Report (S/1999/1116) of 1 November 1999
2. UNSG Report (S/1999/790) of 15 July 1999
3. UNSG report (S/1999/957) of 8 September 1999

**C. LETTER OF THE PRESIDENT OF THE SECURITY COUNCIL**

**a. 2010**

1. (S/2010/187/Add.1) of 4 May 2010
2. (S/2010/207) of 26 April 2010
3. (S/2010/187) of 14 April 2010
4. (S/2010/99) of 1 March 2010

**b. 2009**

1. (S/2009/603) of 23 November 2009
2. (S/2009/105) of 20 February 2009
3. (S/2009/93) of 13 February 2009
4. (S/2009/52) of 27 January 2009

**c. 2008**

1. (S/2008/703) of 12 November 2008
2. (S/2008/685) of 5 November 2008

3. (S/2008/684) of 5 November 2008
4. (S/2008/682) of 31 October 2008
5. (S/2008/681) of 31 October 2008
6. (S/2008/592) of 5 September 2008
7. (S/2008/591) of 5 September 2008
8. (S/2008/526) of 6 August 2008
9. (S/2008/120) of 21 February 2008

**d. 2007**

1. (S/2007/694) of 30 November 2007
2. (S/2007/586) of 3 October 2007
3. (S/2007/70) of 9 February 2007

**e. 2006**

1. (S/2006/984) of 15 December 2006
2. (S/2006/892) of 15 November 2006
3. (S/2006/693) of 28 August 2006
4. (S/2006/624) of 8 August 2006
5. (S/2006/344) of 30 May 2006
6. (S/2006/206) of 31 March 2006
7. (S/2006/139) of 7 March 2006

**f. 2005**

1. (S/2005/544) of 26 August 2005
2. (S/2005/543) of 26 August 2005
3. (S/2005/322) of 18 May 2005
4. (S/2005/152) of 9 March 2005
5. (S/2005/151) of 9 March 2005
6. (S/2005/79) of 9 February 2005

**g. 2004**

1. (S/2004/821) of 18 October 2004
2. (S/2004/715) of 7 September 2004
3. (S/2004/573) of 16 July 2004
4. (S/2004/317) of 22 April 2004

**D. DECLARATION OF THE PRESIDENT OF THE SECURITY COUNCIL**

**a. 2008**

1. (S/PRST/2008/40) of 30 October 2008
2. (S/PRST/2008/38) of 21 October 2008
3. (S/PRST/2008/2) of 30 January 2008

**b. 2007**

1. (S/PRST/2007/44) of 21 November 2007
2. (S/PRST/2007/28) of 23 July 2007
3. (S/PRST/2007/9) of 3 April 2007

**c. 2006**

1. (S/PRST/2006/57) of 20 December 2006
2. (S/PRST/2006/50) of 6 December 2006
3. (S/PRST/2006/44) of 7 November 2006
4. (S/PRST/2006/40) of 22 September 2006
5. (S/PRST/2006/36) of 13 December 2007
6. (S/PRST/2006/4) of 25 January 2006

**d. 2005**

1. (S/PRST/2005/66) of 21 December 2005
2. (S/PRST/2005/46) of 4 October 2005
3. (S/PRST/2005/31) of 15 July 2005
4. (S/PRST/2005/27) of 29 June 2005
5. (S/PRST/2005/15) of 12 April 2005

6. (S/PRST/2005/10) of 17 February 2006

**e. 2004**

1. (S/PRST/2004/45) of 7 December 2004
2. (S/PRST/2004/21) of 22 June 2004
3. (S/PRST/2004/19) of 7 June 2004
4. (S/PRST/2004/15) of 14 May 2004

- E.** Charter of the United Nations, 2010.  
<https://www.un.org/en/documents/charter/chapter1.shtml>, [accessed on 17 September 2010].
- F.** Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977
- G.** United Nations Charter, Chapter XVI: Miscellaneous Provisions, Article 104 and 105,  
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- H.** United Nations Peacekeeping in the service of peace, Operation Artemis: The lessons of the emergency multinational, Peacekeeping Best Practices Unit Military Division,  
[www.peacekeepingbestpractices.unlb.org/PBPS/Library/Artemis.pdf](http://www.peacekeepingbestpractices.unlb.org/PBPS/Library/Artemis.pdf), [accessed on 12 November 2010].
- I.** United Nations Security Council, Twenty-second report of the Secretary General on the United Nations Organisation Mission in the Democratic Republic of the Congo, [www.un-casa.org/CASAUplod/ELibrary/759.pdf](http://www.un-casa.org/CASAUplod/ELibrary/759.pdf), [accessed on 12 November 2010].
- J.** United Nations Security Council, in Presidential statement, reiterates call for withdrawal of all foreign troops from DRC, (SC/7306) of 25 February 2002,  
<http://www.un.org/News/Press/docs/2002/SC7306.doc.htm>, [accessed on 10 April 2013].
- K.** United Nations, Supplement to An agenda for peace: position paper of the Secretary-General on the occasion of the 50th anniversary of the United Nations, UN document A/50/60–S/1995/1 of 3 January 1995,

<http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>, [accessed on 17 September 2012].

## **APPENDIX B**

### **LISTE OF INTERVIEW**

1. Mijahid Alam, Former Head of MONUC, liaison office in Pretoria, held on 21 June 2010 at his offices in Pretoria, South Africa
2. Olivier Ngambo Bura, Lecturer at the Department of International Relations at University of Kinshasa, Tuesday, 15 February 2010, at his office in Kinshasa/DRC.